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NEW DELHI, SATURDAY, NOVEMBER 4, 1989/KARTIKA 13, 1911

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii) PART II—Section 3—Sub-Section (ii)

(रक्षा मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए स्तरीयधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications issued by the Ministries of the Government of India other than
the Ministry of Defence)

विधि और न्याय मंत्रालय
(विधि कार्य विभाग)

सूचनाएं

नई दिल्ली, 27 सितम्बर, 1989

का. आ. 2761.—नोटरी नियम, 1956 के नियम
6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी
जाती है कि श्री राम सरूप मेहता एडवोकेट ने उक्त प्राधि
कारो को उक्त नियम के नियम 4 के अधीन एक आवेदन
इस बात के लिए दिया है कि उसे मंडी हावबाली जिला
हरियाणा व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति
पर किसी भी प्रकार का अपेक्ष इस सूचना के प्रकाशन के
चौदह दिन के भीतर लिखित रूप में मेरे पास भेजा जाए।

[सं. 5(45)/89-न्या.]

MINISTRY OF LAW AND JUSTICE

(Department of Legal Affairs)

NOTICES

New Delhi, the 27th September, 1989

S.O. 2761.—Notice is hereby given by the Competent
Authority in pursuance of rule 6 of the Notaries, 1956,
that application has been made to the said Authority, under

rule 4 of the said Rules, by Shri Surup Mehta Advo-
cate for appointment as a Notary to practise in Mandi
Dubwali Distt. Sirsa, Haryana.

2. Any objection to the appointment of the said person
as a Notary may be submitted in writing to the undersigned
within fourteen days of the publication of this Notice.

[F. 5(45)/89-Judl.1

का. आ. 2762.—नोटरी नियम, 1956 के नियम
6 के अनुसरण में सक्षम प्राधिकारी द्वारा यह सूचना दी
जाती है कि श्री जालन्धर सिंह ठल्ला एडवोकेट ने उक्त
प्राधिकारी को उक्त नियम के नियम 4 के अधीन एक
आवेदन इस बात के लिए दिया है कि उसे जालन्धर शहर
पंजाब व्यवसाय करने के लिए नोटरी के रूप में नियुक्ति पर
किसी भी प्रकार का अपेक्ष इस सूचना के प्रकाशन के चौदह
दिन के भीतर लिखित रूप में मेरे पास भेजा जाए।

[सं. 5(54)/89-न्या.]

के. एल. शर्मा, सक्षम प्राधिकारी

S.O. 2762.—Notice is hereby given by the Competent Authority in pursuance of rule 6 of the Notaries, 1956, that application has been made to the said Authority under rule 4 of the said Rules, by Shri Deepinder Singh Dhall Advocate for appointment as a Notary to practise in Jalandhar (Pb.).

2. Any objection to the appointment of the said person as a Notary may be submitted in writing to the undersigned within fourteen days of the publication of this Notice.

[No. F. 5(54)89-Judl.]

K. L. SARMA, Competent Authority

गृह मंत्रालय

(आंतरिक सुरक्षा विभाग)

(पुनर्वास प्रभाग)

नई दिल्ली, 14 सितम्बर, 1989

का. आ. 2763.—लोक परिसर (अनधिकृत दखल कार्यों की बेवखली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा भारत सरकार के भूतपूर्व प्रति और पुनर्वास मंत्रालय (पुनर्वास विभाग) की दिनांक 3-11-1977 की अधिसूचना सं.-एम. ओ. 3614 में निम्नलिखित संशोधन करती है, अर्थात्:—

उक्त अधिसूचना की सारिणी के कालम (2) में क्रम संख्या 1 के सामने वर्तमान प्रविष्टि के स्थान पर निम्नलिखित प्रविष्टि की जाए अर्थात्:—

“कार्यपालक इंजीनियर (सामान्य केन्द्रीय सेवाएं, ग्रुप क (राज्यपत्रित)।”

[सं. 14(4)/88—दण्डक डेस्क]

संजीव गोयल, निदेशक

MINISTRY OF HOME AFFAIRS

(Department of Internal Security)

Rehabilitation Division)

New Delhi, the 14th September, 1989

S.O. 2763.—In exercise of the powers conferred by Section 3 of the Public Premises (Eviction of unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby makes the following amendment in the notification of the Government of India in the erstwhile Ministry of Supply and Rehabilitation (Department of Rehabilitation) No. S.O. 3614, dated 3rd November, 1977, namely:—

In the Table to the said notification, in column (2), against serial number 1, for the entry, the following entry shall be substituted, namely:—

“Executive Engineer (General Central Services, Group-A (gazetted))”.

[No. 14(4)/88-DNK DESK]

SANJIVA GOYAL, Director

कार्मिक, लोक शिक्षा तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

आदेश

नई दिल्ली, 28 सितम्बर, 1989

का. आ. 2764.—केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उत्तर प्रदेश राज्य सरकार की सहमति से दिल्ली विशेष पुलिस स्थापन के सदस्यों की शक्तियां और अधिकारिता का विस्तार निम्नलिखित अपराधों के अन्वेषण के लिए सम्पूर्ण उत्तर प्रदेश राज्य पर करती है:—

(क) (1) प्रथम इतिला रिपोर्ट सं. 311/89 और 312/89, भारतीय दंड संहिता (1860 का 45) की धारा 147, 332, 353, 505 के अधीन तथा प्र. इ. सूचना सं. 207/89, भारतीय दंड संहिता (1860 का 45) की धारा 323, 427—पुलिस थाना, सिविल लाइन, मुजफ्फरनगर ;

(2) प्रथम इतिला रिपोर्ट सं. 592/89, भारतीय दंड संहिता (1860 का 45) की धारा 147, 353, 332, 427 के अधीन पुलिस थाना कोतवाली, मुजफ्फरनगर ;

(3) (i) प्रथम इतिला रिपोर्ट सं. 266/89, भारतीय दंड संहिता (1860 का 45) की धारा 393, 332, 353 के अधीन ;

(ii) प्रथम इतिला रिपोर्ट सं. 266-क/89, भारतीय दंड संहिता (1860 का 45) की धारा 395, 332, 353, 435 के अधीन ;

(iii) प्रथम इतिला सं. 266-ख/89, भारतीय दंड संहिता (1860 का 45) की धारा 395 के अधीन ;

(iv) प्रथम इतिला रिपोर्ट सं. 26-ग/89, भारतीय दंड संहिता (1860 का 45) की धारा 395, 332, 353 के अधीन।

सभी पुलिस थाना, नई मंडी, मुजफ्फरनगर ;

(4) प्रथम इतिला रिपोर्ट सं. 138/89, भारतीय दंड संहिता (1860 का 45) की धारा 147, 148, 332, 353, 307, 342, 395 के अधीन—पुलिस थाना मन्सूरपुर, मुजफ्फरनगर; 14 सितम्बर, 1989 को दर्ज की गई।

(ख) ऊपर उल्लिखित एक या अधिक अपराधों और उन्हा तथ्यों से उत्पन्न एक से संव्यवहार के अनुक्रम में किए गए किसी अन्य अपराध या किसी अपराधों के संबंध में या उनसे संसक्त प्रत्यक्ष, दुष्प्रेरण और षड्यन्त्र ।

[सं. 228/37/89—ए. वॉ. डी.-II]

जी. सीतारामन, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES & PENSIONS

(Department of Personnel & Training)

ORDER

New Delhi, the 28th September, 1989

S.O. 2764.—In exercise of the powers conferred by sub-section (1) of section 5, read with section 6, of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946) the Central Government, with the consent of the State Government of Uttar Pradesh hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Uttar Pradesh for investigation of offences as hereunder :

- (a) (1) FIR No. 311/89 and 312/89 under sections 147, 332, 353, 504 of Indian Penal Code (45 of 1860), and FIR No. 207/89 under sections 323, 427 of Indian Penal Code (45 of 1960) of Police Station Civil Line, Muzaffarnagar;
- (2) FIR No. 592/89 under sections 147, 353, 332, 427 of Indian Penal Code (45 of 1860) of Police Station Kotwali, Muzaffarnagar;
- (3) (i) FIR No. 266/89 under sections 393, 332, 353 of Indian Penal Code (45 of 1860).
- (ii) FIR No. 266-A/89 under sections 395, 332, 353, 435 of Indian Penal Code (45 of 1860),
- (iii) FIR No. 266-B/89 under section 395 of Indian Penal Code (45 of 1860),
- (iv) FIR No. 266-C/89 under sections, 395, 332, 353 of Indian Penal Code (45 of 1860),
all of Police station Nai Mandi, Muzaffarnagar;
- (4) FIR No. 138/89 under sections 147, 148, 332, 353, 307, 342, 395 of Indian Penal Code (45 of 1860) of Police Station Mansoor Pur, Muzaffarnagar; registered on 14th September, 1989.
- (b) Attempts, abetments and conspiracies in relation to or in connection with one or more of the offence mentioned above and other offence or offences committed in the course of same transaction arising out of the same facts.

[No. 228/37/89-AVD-II]

G. SITARAMAN, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

आदेश

नई दिल्ली, 26 सितम्बर, 1989

स्टाम्प

का. आ. 2765.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 को उपधारा 1 के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा पावर फाइनेंस कॉर्पोरेशन लि. द्वारा जारी किए जाने वाले केवल 350 करोड़ रु. मूल्य के "9% (निःशुल्क) सुरक्षित विमोच्य पी. एफ. से बंधपत्रों (द्वितीय शृंखला)" के रूप में वर्णित-पत्रों के रूप में बंधपत्रों पर उस शुल्क को माफ करती है जो उक्त अधिनियम के तहत प्रभावी है।

[सं. 58/89—स्टा./का. सं. 33/58/88 वि. कर]

ठाकुर दत्त, उप सचिव

MINISTRY OF FINANCE

(Department of Revenue)

ORDER

New Delhi, the 26th September, 1989

STAMPS

S.O. 2765.—In exercise of the powers conferred by clause (a) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby remits the duty with which the bonds in the nature of debentures described as "9 per cent (tax free) secured Redeemable PFC Bonds (Second Series)" of the value of rupees three hundred fifty crores only to be issued by Power Finance Corporation Limited, are chargeable under the said Act.

[No. 58/89-Stamp-F. No. 33/58/88-ST]

THAKUR DATT, Dy. Secy.

(आर्थिक कार्य विभाग)

नई दिल्ली, 18 अक्टूबर, 1989

का. आ. 2766.—केन्द्रीय सरकार, विदेशी मुद्रा विनियमन अधिनियम, 1973 (1973 का 46) की धारा 3 के खण्ड (ड.) के साथ पठित धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिनियम के उपबन्धों को प्रवृत्त करने के प्रयोजनार्थ श्री जैड. वी. नागरकर को प्रवर्तन अधिकारी नियुक्त करती है, जिनका पदाभिधान विशेष प्रवर्तन निदेशक होगा और उक्त अधिनियम की धारा 50 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उन्हें तद्धीन बनाए गए किसी नियम, निदेश या आदेश या उसके उपबन्धों में से किसी भी उपबन्ध (धारा 13, धारा 18 की उपधारा (i) के खण्ड (क) और धारा 19 की उपधारा (i) के खण्ड (क) से भिन्न) के उल्लंघन के मामलों को अधिनियमित करने के लिए शक्तियां प्रदान करती है।

[का. सं. 174/3/89—टी सी (ई)]

के. जी. गोयल, निदेशक

(Department of Economic)

New Delhi, the 18th October, 1989

S. O. 2766.—In exercise of the powers conferred by sub-section (1) of section 4, read with clause (e) of section 3 of the Foreign Exchange Regulation Act, 1973 (46 of 1973), the Central Government hereby appoints Shri Z. B. Nagarkar to be an officer of Enforcement with the designation of Special Director of Enforcement, for the purpose of enforcing the provisions of the said Act and in exercise of the powers conferred by section 50 of the said Act hereby empowers him to adjudicate cases of contravention of any of the provisions thereof [other than section 13, clause (a) of sub-section (1) of section 18 and clause (a) of Sub-section (1) of section 19] or of any rule, direction or order made thereunder.

[F. No. 174/3/89-TC(E)]

K. G. GOEL, Director

(बैंकिंग प्रभाग)

नई दिल्ली, 4 अक्टूबर, 1989

का. आ. 2767.—राष्ट्रीयकृत बैंक (प्रबन्ध और प्रकीर्ण उपबन्ध) स्कीम, 1980 की धारा 9 के साथ पठित धारा 3 की उपधारा (च) के अनुसरण में केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् एतद्वारा श्री जगपत दुबे, 8, कानपुर रोड, सिविल लाइन्स, इलाहाबाद 211001, उत्तर प्रदेश को जमाकर्ताओं के हितों का प्रतिनिधित्व करने के लिए 4 अक्टूबर, 1989 से प्रारम्भ होकर 3 अक्टूबर, 1992 को समाप्त होने वाली तीन वर्षों की अवधि के लिए न्यू बैंक आफ इंडिया में निदेशक के रूप में नियुक्त करती है।

[एफ. संख्या 9/34/88—बी. ओ. I.]

(Banking Division)

New Delhi, the 4th October, 1989

S. O. 2767.—In pursuance of Sub-Clause (d) of Clause 3 read with Clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri Jagpat Dube, 8, Kanpur Road, Civil Lines, Allahabad 211001 Uttar Pradesh as a Director of the New Bank of India for a period of three years commencing on the 4th day of October, 1989 and ending with the 3rd day of October, 1992 to represent the interests of depositors.

[F. No. 9/34 88-B. O. I.]

का. आ. 2768.—राष्ट्रीयकृत बैंक (प्रबन्ध और प्रकीर्ण उपबन्ध) स्कीम, 1980 की धारा 9 के साथ पठित धारा 3 की उपधारा (च) के अनुसरण में केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् एतद्वारा श्री प्रभाकर दामोदर दलाल, चार्टर्ड लेखाकार, प्रकल्प, अशोक नगर, धुले-424001 (महाराष्ट्र) को 4 अक्टूबर, 1989 से प्रारम्भ होकर 3 अक्टूबर, 1992 को समाप्त होने वाली तीन वर्षों की अवधि के लिए कॉर्पोरेट बैंक के निदेशक के रूप में नियुक्त करती है।

[एफ. सं. 9/35/88—बी. ओ. I.]

S. O. 2768.—In pursuance of Sub-Clause (f) of Clause 3 read with Clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri Prabhakar Damodar Dalal, Chartered Accountant, Prkalp, Ashoknagar, Dhule, Maharashtra 424 001 as a Director of the Corporation Bank for a period of three years commencing on the 4th day of October, 1989 and ending with the 3rd day of October, 1992.

[F. No. 9/35/88-B. O. I.]

का. आ. 2769.—राष्ट्रीयकृत बैंक (प्रबन्ध और प्रकीर्ण उपबन्ध) स्कीम, 1970 की धारा 9 के साथ पठित धारा 3 की उपधारा (च) के अनुसरण में केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् एतद्वारा श्री विजय गोवर्धन दास कालन्त्रा, 2, वाहेदना एपार्टमेंट्स 75, हिल रोड, बॉन्डा (वेस्ट), बम्बई-400050 (महाराष्ट्र) को 4 अक्टूबर 1989 से प्रारम्भ होकर और 3 अक्टूबर, 1992 को समाप्त होने वाली तीन वर्षों की अवधि के लिए देना बैंक में निदेशक के रूप में नियुक्त करती है।

[एफ. सं. 9/38/88—बी. ओ.-I.]

S.O. 2769.—In pursuance of Sub-Clause (f) of Clause 3 read with Clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri Vijay Goverdhandas Kalantri, 2, Wahedna Apartments, 75, Hill Road, Bandra (West), Bombay 400 050, Maharashtra as a Director of the Dena Bank for a period of three years commencing on the 4th day of October, 1989 and ending with the 3rd day of October, 1992.

[F. No. 9/38/88-B. O. I.]

का. आ. 2770.—राष्ट्रीयकृत बैंक (प्रबन्ध और प्रकीर्ण उपबन्ध) स्कीम, 1970 की धारा 9 के साथ पठित धारा 3 की उपधारा (च) के अनुसरण में केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् एतद्वारा श्री करुणाकान्त दत्त, 1 बी, राजहंस अपार्टमेंट्स, 6 हेस्टिंग्स पार्क रोड, अलिपुर, कलकत्ता-700027, पश्चिम बंगाल को 4 अक्टूबर, 1989 से प्रारम्भ होकर 3 अक्टूबर, 1992 को समाप्त होने वाली तीन वर्षों की अवधि के लिए इण्डियन बैंक में निदेशक के रूप में नियुक्त करती है।

[एफ. संख्या 9/41/88—बी. ओ. -I.]

S. O. 2770.—In pursuance of Sub-Clause (f) of Clause 3 read with Clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri Karuna Kant Dutt, 1-B, Rajhans Apartments, 6 Hastings Park Road, Alipore, Calcutta-700 027, West Bengal as a Director of the Indian Bank for a period of three years commencing on the 4th day of October, 1989 and ending with the 3rd day of October, 1992.

[F. No. 9/41/88-B. O. I.]

का. आ. 2771.—राष्ट्रीयकृत बैंक (प्रबन्ध और प्रकीर्ण उपबन्ध) स्कीम, 1970 की धारा 9 के साथ पठित धारा 3 की उपधारा (ड) के अनुसरण में केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् एतद्वारा श्रीमती रेहानाबेगम, तर्किया नेपियर रोड 2, मलिका

बाजार के पास, अंजौर वाली मस्जिद, थाकुर गंज, लखनऊ (उ. प्र.) को शिल्पकारों के हितों का प्रतिनिधित्व करने के लिए 4 अक्तूबर, 1989 से प्रारम्भ होकर 3 अक्तूबर, 1992 को समाप्त होने वाली तीन वर्षों की अवधि के लिए इलाहाबाद बैंक में निदेशक के रूप में नियुक्त करती है।

[एफ. सं. 9/23/88—बी. ओ.-I]

S. O. 2771.—In pursuance of Sub-Clause (e) of Clause 3 read with Clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Smt. Rehana Begum, Fakia Napier Road 2, Near Maliki Bazar, Anjir Wali Masjid, Thakur Ganj, Lucknow, Uttar Pradesh as a Director of the Allahabad Bank for a period of three years commencing on the 4th day of October, 1989 and ending with the 3rd day of October, 1992 to represent the interests of artisans.

[F. No. 9/23/88-B. O. II]

का. आ. 2772.—राष्ट्रीयकृत बैंक (प्रबन्ध और प्रकीर्ण उपबन्ध) स्कीम, 1980 की धारा 9 के साथ पठित धारा 3 की उपधारा (च) के अनुसरण में केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् एतद्वारा श्री प्रीति पाल सिंह, 20ए-पटेल पुरी, मेरठ छावनी, उत्तर प्रदेश को 4 अक्तूबर, 1989 से प्रारम्भ होकर 3 अक्तूबर, 1992 को समाप्त होने वाली तीन वर्षों की अवधि के लिए आन्ध्र बैंक में निदेशक के रूप में नियुक्त करती है।

[एफ. सं. 9/24/88—बी. ओ.-I]

S. O. 2772.—In pursuance of Sub-Clause (f) of Clause 3 read with Clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri Priti Pal Singh, 20/A, Patel Purl, Meerut Cantt., Uttar Pradesh as a Director of the Andhra Bank for a period of three years commencing on the 4th day of October, 1989 and ending with the 3rd day of October, 1992.

[F. No. 9/24/88-B. O. II]

का. आ. 2773.—राष्ट्रीयकृत बैंक (प्रबन्ध और प्रकीर्ण उपबन्ध) स्कीम, 1970 की धारा 9 के साथ पठित धारा 3 के अनुसरण में केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् एतद्वारा 04 अक्तूबर, 1989 से प्रारम्भ होकर 03 अक्तूबर, 1992 को समाप्त होने वाली तीन वर्षों की अवधि के लिए निम्नलिखित व्यक्तियों को बैंक आफ इण्डिया में निदेशक के रूप में नियुक्त करती है ;—

1. श्री बाली राम राय, उक्त बैंक के जमाकर्ताओं के गुजराती मोहल्ला, हितों का प्रतिनिधित्व करने गुजराती हाई स्कूल के के लिए धारा 3 की उप-पास डाकघर—मरिया, धारा (घ) के अनुसरण जिला—धनबाद, बिहार। में।
2. श्री समशेर सिंह दल्लो, किसानों के हितों का प्रति-म. नं. 326, मोहल्ला निधित्व करने के लिए रविदास पुरी, वार्ड नं. धारा 3 की उपधारा 13, खन्ना टाउन, (ङ) के अनुसरण में। जिला—लुधियाना, पंजाब।

[एफ. सं. 9/28/88-बी. ओ.-I]

S.O. 2773—In pursuance of clause 3 read with clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government, after consultation with the Reserve Bank of India, hereby appoints the following persons as Directors of the Bank of India for a period of three years commencing on the 4th day of October, 1989 and ending with the 3rd day of October, 1992 :—

1. Shri Bali Ram Rai Gujarati Mohalla (Near Gujarati High School, P.O. Jharia Distt. Dhanbad Bihar. Representing the interests of depositors of the said bank—in pursuance of sub-clause (d) of Clause 3.
2. Shri Samsher Singh Dullo H.I. No. 326, Mohalla Ravidass Puri, Ward No. 13, Khanna Town Distt. Ludhiana Punjab. Representing the interests of farmers—in pursuance of sub-clause (e) of Clause 3.

[F. No. 9/28/88-B.O.I.]

नई दिल्ली, 17 अक्तूबर, 1989

का. आ. 2774.—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबन्ध) स्कीम, 1970 की धारा 9 के साथ पठित धारा 3 की उपधारा (ङ) के अनुसरण में केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् एतद्वारा श्रीमती तारा गुप्ता, नं. 1, छज्जुबाग, पटना, बिहार को शिल्पकारों के हितों का प्रतिनिधित्व करने के लिये 17 अक्तूबर, 1989 से प्रारम्भ होकर 16 अक्तूबर, 1992 को समाप्त होने वाली तीन वर्षों की अवधि के लिये यूको बैंक में निदेशक के रूप में नियुक्त करती है।

[एफ. सं. 9/25/88-बी.ओ.-1]

New Delhi, the 17th October, 1989

S. O. 2774.—In pursuance of Sub-Clause (f) of Clause 3 read with Clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Smt. Tara Gupta, No. 1, Chhajubagh, Patna, Bihar as a Director of the UCO Bank for a period of three years commencing on the 17th day of October, 1989 and ending with the 16th day of October, 1992 to represent the interests of artisans.

[F. No. 9/25/88-B. O. II]

का. आ. 2775.—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबन्ध) स्कीम, 1970 की धारा 9 के साथ पठित धारा 3 की उपधारा (घ) के अनुसरण में केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् एतद्वारा श्री सलामत बल्लू ए-3 हजरत निजामूद्दीन (पश्चिमी) नई दिल्ली-110013 को जमाकर्ताओं के हितों का प्रतिनिधित्व करने के लिये 17 अक्तूबर, 1989 से प्रारम्भ होकर 16 अक्तूबर, 1992 को समाप्त होने वाली तीन वर्षों की अवधि के लिये पंजाब नेशनल बैंक में निदेशक के रूप में नियुक्त करती है।

[एफ. सं. 9/26/88-बी.ओ. I]

S. O. 2775.—In pursuance of Sub-Clause (d) of Clause 3 read with Clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri Salamat Ullah, A-3, Hazrat Nizamuddin West, New Delhi-110013 as a Director of the Punjab National Bank for a period of three years commencing on the 17th day of October, 1989 and ending with the 16th day of October, 1992 to represent the interests of depositors.

[F. No. 9/26/88-B. O. I]

का.ग्रा. 2776.—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1970 की धारा 9 के साथ पठित धारा 3 की उपधारा (च) के अनुसरण में केन्द्रीय सरकार, रिजर्व बैंक से परामर्श करने के पश्चात् एतद्वारा श्री बहुरी एक्का डीन, छात्र कल्याण रांची विश्वविद्यालय, रांची बिहार को 17 अक्टूबर 1989 से प्रारंभ होकर 16 अक्टूबर, 1992 को समाप्त होने वाली तीन वर्षों की अवधि के लिए बैंक आफ बड़ौदा में निदेशक के रूप में नियुक्त करती है।

[एफ. नं. 9/30/88-बी.ओ.]

S. O. 2776.—In pursuance of Sub-Clause (f) of Clause 3 read with Clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri Bahura Ekka, Dean Students' Welfare, Ranchi University, Ranchi, Bihar as a Director of the Bank of Baroda for a period of three years commencing on the 17th day of October, 1989 and ending with the 16th day of October, 1992.

[F. No. 9/30/88-B. O. I]

का.ग्रा. 2777.—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1980 की धारा 9 के साथ पठित धारा 3 की उपधारा (ङ) के अनुसरण में केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् एतद्वारा श्री बेंकटरमन शेटी, होसुर, गुंडलुपेट तालुक, जिला मैसूर, कर्नाटक को शिल्पकारों के हितों का प्रतिनिधित्व करने के लिए 17 अक्टूबर, 1989 से प्रारंभ होकर 16 अक्टूबर, 1992 को समाप्त होने वाली तीन वर्षों की अवधि के लिए कारपोरेशन बैंक में निदेशक के रूप में नियुक्त करती है।

[एफ. नं. 9/35/88-बी.ओ. I]

S. O. 2777.—In pursuance of Sub-Clause (e) of Clause 3 read with Clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri Venkataramana Setty, Hosur, Gundlupet Taluk, Mysore District, Karnataka as a director

of the Corporation Bank for a period of three years commencing on the 17th day of October, 1989 and ending with the 16th day of October, 1992 to represent the interests of artisans.

[F. No. 9/35/88-B. O. I]

का.ग्रा. 2778.—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1970 की धारा 9 के साथ पठित धारा 3 की उपधारा (घ) के अनुसरण में केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् एतद्वारा श्री संजीव कपूर, 13/397, मिबिल लाइन्स, कानपुर, उत्तर प्रदेश को 17 अक्टूबर, 1989 से प्रारंभ होकर 16 अक्टूबर, 1992 को समाप्त होने वाली तीन वर्षों की अवधि के लिए इण्डियन बैंक में निदेशक के रूप में नियुक्त करती है।

[एफ. नं. 9/41/88-बी.ओ.-I]

S.O. 2778.—In pursuance of Sub-Clause (f) of Clause 3 read with Clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri Sanjiv Kapoor, 13/397, Civil Lines, Kanpur, Uttar Pradesh as a Director of the Indian Bank for a period of three years commencing on the 17th day of October, 1989 and ending with the 16th day of October, 1992.

[F. No. 9/41/88-B. O. I]

का.ग्रा. 2779.—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1970 की धारा 9 के साथ पठित धारा 3 की उपधारा (च) के अनुसरण में केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् एतद्वारा श्री मदन वर्मा, सी. 68, फ्रेंड्स कॉलोनी, नई दिल्ली-110065 को 17 अक्टूबर, 1989 से प्रारंभ होकर 16 अक्टूबर, 1992 को समाप्त होने वाली तीन वर्षों की अवधि के लिए बैंक आफ महाराष्ट्र में निदेशक के रूप में नियुक्त करती है।

[एफ. नं. 9/42/88-बी.ओ.-I]

S. O. 2779.—In pursuance of Sub-Clause (f) of Clause 3 read with Clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri Madan Varma, C-68, Friends Colony, New Delhi-110065 as a Director of the Bank of Maharashtra for a period of three years commencing on the 17th day of October, 1989 and ending with the 16th day of October, 1992.

[F. No. 9/42/88-B. O. I]

नई दिल्ली 18, अक्तूबर, 1989

का. आ. 2780:—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम 1970 के खण्ड 3 के उपखण्ड (ज) के अनुसरण में केन्द्रीय सरकार एतद्वारा नीचे दी गई सारणी के कालम (2) में निर्दिष्ट व्यक्तियों को उक्त सारणी के कालम (3) में निर्दिष्ट व्यक्तियों के स्थान पर कालम (1) में निर्दिष्ट राष्ट्रीयकृत बैंकों का निदेशक नियुक्त करती है :—

सारणी

1	2	3
बैंक ऑफ इंडिया	श्री एम. एन. बुच संयुक्त सचिव वित्त मंत्रालय आर्थिक कार्य विभाग बैंकिंग प्रभाग नई दिल्ली	श्री मनीष चन्द्र सत्यवादी
केनरा बैंक	श्री वल्लूरी नारायण संयुक्त सचिव वित्त मंत्रालय आर्थिक कार्य विभाग बैंकिंग प्रभाग नई दिल्ली	श्री मनीष चन्द्र सत्यवादी

[सं. एफ. 9/6/89-बी.ओ. I (1)]

New Delhi, the 18th October, 1989

S.O. 2780.—In pursuance of sub-clause (h) of clause 3 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government hereby appoints the persons specified in column (2) of the Table below as Directors of the nationalised banks specified in column (1) thereof in place of the persons specified in column (3) of the said table :—

TABLE

1	2	3
Bank of India	Shri M. N. Buch Joint Secretary Ministry of Finance Department of Economic Affairs Banking Division New Delhi.	Shri M. C. Satyawadi
Canara Branch	Shri Valluri Narayan Joint Secretary Ministry of Finance Department of Economic Affairs Banking Division New Delhi.	Shri M. C. Satyawadi

[No. F. 9/6/89-BO.I.(1)]

का. आ. 2781:—राष्ट्रीयकृत बैंक (प्रबंध एवं प्रकीर्ण उपबंध) स्कीम 1970 के खण्ड 3 के उपखण्ड (छ) के अनुसरण में केन्द्रीय सरकार एतद्वारा नीचे दी गयी सारणी के कालम (2) में निर्दिष्ट व्यक्तियों की उक्त सारणी के कालम (3) में निर्दिष्ट व्यक्तियों के स्थान पर कालम (1) में निर्दिष्ट राष्ट्रीयकृत बैंकों का निदेशक नियुक्त करती है :—

सारणी

1	2	3
बैंक ऑफ महाराष्ट्र	श्री जगदीश कपूर मुख्य अधिकारी आईईसीडी भारतीय रिजर्व बैंक बम्बई ।	श्री एन. डी. परमेश्वरन

इंडियन ओवरसीज बैंक

श्री एन. डी. पारमेश्वरन
संयुक्त मुख्य अधिकारी
डी.बी.ओ.डी.
भारतीय रिजर्व बैंक
केन्द्रीय कार्यालय
बम्बई ।

श्री डी. एम. रामचन्द्रन राजू

[सं. 9/12/89 बी. ओ. I]

S.O. 2781.—In pursuance of sub-clause (a) of clause 3 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government hereby appoints the persons specified in column (2) of the Table below as Directors of the nationalised banks specified in column (1) thereof in place of the persons specified in column (3) of the said Table :

TABLE

(1)	(2)	(3)
Bank of Maharashtra	Shri Jagdish Kapoor Chief Officer I.E.C.D. Reserve Bank of India Bombay	Shri N. D. Parameswaran
Indian Overseas Bank	Shri N. D. Parameswaran Joint Chief Officer DBOD Reserve Bank of India Central Office Bombay.	Shri D. S. Ramachandra Raju

[No. 9/12/89-B.O. I]

का.आ. 2782 :—भारतीय औद्योगिक पुनर्निर्माण बैंक अधिनियम, 1984 (1984 का 62) की धारा 10 की उपधारा (1) के खण्ड (घ) के उपखंड (1) के अनुसरण में केन्द्रीय सरकार एतद्वारा श्री मन्त्रेश्वर झा, संयुक्त सचिव, वित्त मंत्रालय, आर्थिक कार्य विभाग, बैंकिंग प्रभाग, नई दिल्ली को श्री मनीष चन्द्र सत्यवादी के स्थान पर भारतीय औद्योगिक पुनर्निर्माण बैंक के रूप में नामित करती है ।

[संख्या एफ. 9/6/89-बी.ओ. I (2)]

S.O. 2782.—In pursuance of sub-clause (i) of Clause (d) of sub-section (1) of Section 10 of the Industrial Reconstruction Bank of India Act, 1984 (62 of 1984) the Central Government hereby nominates Shri Mantreshwar Jha, Joint Secretary, Ministry of Finance, Department of Economic Affairs, Banking Division, New Delhi as a Director of the Industrial Reconstruction Bank of India vice Shri M. C. Satyawadi.

[F. No. 9/6/89-B.O. I(2)]

का.आ. 2783 :—औद्योगिक पुनर्निर्माण अधिनियम, 1948 (1948 का 15) की धारा 10 की उपधारा (1) के खण्ड (ख) के अनुसरण में, केन्द्रीय सरकार एतद्वारा वित्त मंत्रालय, आर्थिक कार्य विभाग (बैंकिंग प्रभाग), नई दिल्ली के संयुक्त सचिव श्री मन्त्रेश्वर झा को श्री मनीष चन्द्र सत्यवादी के स्थान पर भारतीय औद्योगिक पुनर्निर्माण बैंक के निदेशक के रूप में नामित करती है ।

[सं. एम. 9/6/89-बी.ओ. 1 (3)]

एस. एस. सीतारामन, अव्वर सचिव

S.O. 2783.—In pursuance of clause (b) of sub-section (1) of section 10 of the Industrial Finance Corporation Act, 1948 (15 of 1948) the Central Government hereby nominates Shri Mantreshwar Jha, Joint Secretary, Ministry of Finance, Department of Economic Affairs, Banking Division, New Delhi as a Director of the Industrial Finance Corporation of India vice Shri M. C. Satyawadi.

[F. No. 9/6/89-B.O. I(3)]

M. S. SEETHARAMAN, Under Secy.

नई दिल्ली, 16 अक्टूबर, 1989

का.आ. 2784 :—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबन्ध) स्कीम, 1970 की धारा 9 की उपधारा (2) के साथ पठित धारा 3 की उपधारा (ख) के अनुसरण में, केन्द्रीय सरकार, एतद्वारा श्री धनन्जय निवारी, विशेष सहायक, इलाहाबाद बैंक, सिविल लाइन्स, इलाहाबाद शाखा, इलाहाबाद को दिनांक 16 अक्टूबर 1989 से 15 अक्टूबर 1992 तक अथवा जब तक वे इलाहाबाद बैंक के एक कर्मचारी के रूप में अपनी सेवा छोड़ नहीं देते हैं, इनमें से जो भी पहले हो, इलाहाबाद बैंक के निदेशक बोर्ड में निदेशक के रूप में नियुक्त करती है ।

[संख्या 15/3/89-आई आर]

सतपाल भाटिया, अव्वर सचिव

New Delhi, the 16th October, 1989

S.O. 2784.—In pursuance of sub-clause (b) of Clause 3 read with sub-clause (2) of Clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme,

1970, the Central Government hereby appoints Shri Dhananjay Tiwari, Spl. Assistant, Allahabad Bank, Civil Lines, Allahabad Branch, Allahabad as a Director on the Board of Directors of Allahabad Bank with effect from 16th October, 1989 to 15th October, 1992 or until he ceases to be an employee of the Allahabad Bank whichever is earlier.

[No. F.15/3/89-IR]

S.P. BHATIA, Under Secy.

नई दिल्ली, 19 अक्टूबर, 1989

का. आ. 2785:—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 56 के साथ पठित धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर यह घोषणा करती है कि उक्त अधिनियम की धारा 11 की उप धारा (1) के उपबंध जलपाईगुड़ी सेंट्रल कोऑपरेटिव बैंक लि., जलपाईगुड़ी (पश्चिम बंगाल) पर इस अधिसूचना के सरकारी राजपत्र में प्रकाशित होने की तारीख से दिनांक 31 दिसंबर, 1991 तक की अवधि के लिए लागू नहीं होंगे।

[एफ. सं. 6-2/89-एसी]

प्रवीण कुमार तेजयान, अवर सचिव

New Delhi, the 19th October, 1989

S.O. 2785.—In exercise of the powers conferred by Section 53 read with Section 56 of the Banking Regulation Act, 1949 (10 of 1949) the Central Government on the recommendations of the Reserve Bank of India declares that the provisions of Sub-section (1) of Section 11 of the said Act shall not apply to the Jalpaiguri Central Cooperative Bank Ltd., Jalpaiguri (West Bengal) from the date of publication of this notification in the official Gazette to 31 December 1991.

[F. No. 6-2/89-AC]

P.K. TEJYAN, Under Secy.

वाणिज्य मंत्रालय

(मुख्य नियंत्रक आयात-निर्यात का कार्यालय)

आदेश

नई दिल्ली, 16 अक्टूबर, 1989

का.आ. 2786:—मैसर्स वेस्ट बंगाल फिलामेंट एण्ड लैम्प लि., पो. आफिस गयोसपुर, कल्याणी 741234, जिला नादिया, वेस्ट बंगाल को जी. सी. ए. के अन्तर्गत 0.82 एमएम ब्यास की मोल्योडेनम वायर (2 टन) की आयात करने के लिए 13,90,000/- रु. का एक आयात लाइसेंस सं. पो./डी./1096341 दिनांक 8-4-88 स्वीकृत किया गया था।

फर्म ने उपर्युक्त लाइसेंस की सीमाशुल्क प्रयोजन ति की दूसरी प्रति जारी करने के लिए इस आधार पर आर्धदन किया है कि मूल सीमाशुल्क प्रति उनसे खो गई है/गुम हो गई है।
2931 GI/89-2.

उन्होंने आगे यह भी कहा है कि लाइसेंस की कलकत्ता सीमा-शुल्क (एयर कारगो काम्प्लेक्स) के यहां पंजीकृत कराया गया था और लाइसेंस का आंशिक प्रयोग किया गया है और इसका 2,60,090/- रु. का मूल्य शेष रहता है।

अपने इस दावे के समर्थन में लाइसेंसधारक ने नोटरी पब्लिक, कलकत्ता के समक्ष विधिवत् शपथ लेते हुए स्टाम्प पेपर पर एक हलफनामा भी संलग्न किया है तदनुसार मैं सन्तुष्ट हूँ कि उपर्युक्त लाइसेंस की मूल सीमा-शुल्क प्रति फर्म द्वारा खो गई है/गुम हो गई है। आयात (नियंत्रण) आदेश, 1955 दिनांक 7-12-1955 की यथासंशोधित उप-धारा 9 (ग ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मैं वेस्ट बंगाल फिलामेंट एण्ड लैम्प लि., जिला-नादिया वेस्ट बंगाल को जारी किए गए दिनांक 8-4-88 के आयात लाइसेंस पी./डी./1096341 की उक्त सीमाशुल्क प्रति को एतद्द्वारा रद्द किया जाता है।

उक्त लाइसेंस की दूसरी प्रति पार्टी को अलग से जारी की जा रही है।

[सं. सप्ली/एन एस-13/1691/डी.जी.टी.डी/ए एम-88/- एसएलएस]

से. कुजूर, उप मुख्य नियंत्रक आयात-निर्यात
कृते मुख्य नियंत्रक आयात-निर्यात

MINISTRY OF COMMERCE

Office of the Chief Controller of Imports and Exports

ORDER

New Delhi, the 16th October, 1989

S.O. 2786.—M/s. West Bengal Filaments & Lamps Ltd., P.O. Gayeshpur, Kalyani 741234, Dist. Nadia, West Bengal has been granted an import licence No. P/D/1096341 dt. 8-4-88 for Rs. 13,90,000/- for import of MOLYODENUM WIRE-0-82mm Dia (2 Tonnes) UNDER GCA.

The firm has applied for issue of Duplicate Copy of the Customs Copy of the above mentioned licence, on the grounds that the original Customs Copy of the licence has been lost/misplaced by them. It has further been stated that the licence has been registered with Calcutta Customs (Air Cargo Complex) and the licence has been utilised partly, leaving a balance of Rs. 2,60,090/-.

In support of their contention, the licensee has filed an affidavit on stamped paper duly sworn in before a NOTARY PUBLIC, Calcutta. I accordingly satisfied that the original Customs Copy of the above licence has been lost/misplaced by the firm.

In exercise of the powers conferred under Sub. Clause 9(cc) of the Import (Control) Order, 1955, dt. 7-12-1955 as amended, the said Customs Copy of the Import Licence No. P/D/1096341 dt. 8-4-88 issued to M/s. West Bengal Filaments & Lamps Ltd. Distt. Nadia, West Bengal is hereby cancelled.

A duplicate copy of the said licence is being issued to the party separately.

'No. Suppl/NS-13/1691/DGTD/AM'88/SLS/

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S. KUJUR, Dy. Chief Controller of
[Imports & Exports for Chief Controller of Imports and Exports,

योजना मंत्रालय

(सांख्यिकी विभाग)

नई दिल्ली, 12 अक्टूबर, 1989

का.आ. 2787:—भारतीय सांख्यिकीय संस्थान अधिनियम (संख्या 57), 1959 के खण्ड 8, उप खण्ड (1) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार एतद्वारा निम्नलिखित व्यक्तियों की एक समिति का गठन करती है :—

1. डा. सी. एच. हनुमन्ता राव, —अध्यक्ष—
इन्स्टीच्यूट ऑफ इकोनॉमिक ग्रोथ,
दिल्ली विश्वविद्यालय,
दिल्ली-110007.

2. डा. जी. एस. भल्ला, —सदस्य—
प्रोफेसर अर्थशास्त्र,
क्षेत्रीय विकास अध्ययन केन्द्र,
जवाहर लाल नेहरू विश्वविद्यालय,
नई दिल्ली-110067.

3. डा. एम. एस. बलियाथन, —सदस्य—
निदेशक,
श्री चित्रा त्रिरुनल इन्स्टीच्यूट फोर मेडिकल
साइंस एंड टेक्नोलॉजी,
त्रिवेन्द्रम-695011.

4. प्रो. ए. आर. राय, निदेशक, —सदस्य—
प्रयुक्त सांख्यिकी तथा विकास अध्ययन संस्थान,
लखनऊ-226016.

5. श्री एस. बी. राव, —सदस्य—
भारतीय सांख्यिकीय संस्थान, कलकत्ता
(भारतीय सांख्यिकीय संस्थान के मनोनीत)

6. महानिदेशक, —सदस्य—
केन्द्रीय सांख्यिकीय संगठन तथा
अवर सचिव सांख्यिकी विभाग, नई दिल्ली

7. वित्तीय सलाहकार, —सदस्य—
सांख्यिकी विभाग,
नई दिल्ली

8. उप सचिव, सदस्य सचिव
सांख्यिकी विभाग,
नई दिल्ली

और उक्त समिति को निम्नलिखित कार्य निर्धारित करती है :—

(1) कार्य के सम्मत कार्यक्रम (योजनागत तथा योजनेतर दोनों) की समीक्षा करना तथा संशोधित प्राक्कलन 1989-90 में प्रदान की जाने वाली राशि के संबंध में सिफारिशें करना तथा भारतीय सांख्यिकीय संस्थान को सहायता अनुदान अदा करने के लिए 1990-91 के लिए वित्तीय प्राक्कलनों के संबंध में भी सिफारिशें करना ।

(1)(क) वर्ष 1990-91 के दौरान भारतीय सांख्यिकीय संस्थान, कलकत्ता द्वारा किए जाने वाले कार्य का कार्यक्रम (योजनागत तथा योजनेतर दोनों) दर्शाने वाले विवरण तथा इस प्रकार के कार्य के लिए सामान्य वित्तीय अनुभाग तैयार करना और उसे केन्द्र सरकार के समक्ष प्रस्तुत करना, जिसके लिए केन्द्रीय सरकार निधि की व्यवस्था करती है ।

(ख) कार्यक्रम से सम्बन्धित विस्तृत रूपरेखा निश्चित करना ।

2. समिति अपनी रिपोर्ट सरकार को 31 मार्च, 1990 से पहले प्रस्तुत करेगी ।

3. सांख्यिकी विभाग समिति को जिसका मुख्यालय नई दिल्ली, में होगा, सचिवालय सहायता प्रदान करेगा ।

[संख्या एम-12011/3/89-समन्वय]

नवल किशोर, उप सचिव

MINISTRY OF PLANNING

(Department of Statistics)

New Delhi, the 12th October, 1989

S.O.2787.—In exercise of the powers conferred by Sub-section (1) of Section 8 of the Indian Statistical Institute Act (No. 57) of 1959, the Central Government hereby constitutes a Committee consisting of :—

1. Dr. C. H. Hanumantha Rao,
Institute of Economic Growth,
Delhi University, Delhi-7.

— Chairman

2. Dr. G. S. Bhalla,
Professor of Economics,
Centre for Studies in Regional Development,
JNU, New Delhi-67.

— Member

- | | |
|--|--------------------|
| 3. Dr. M. S. Valiathan,
Director, Sree Chitra Tirunal Institute
for Medical Science & Technology,
Trivandrum-695 011. | — Member |
| 4. Prof. A. R. Roy,
Director, Institute of Applied
Statistics & Development Studies,
Lucknow. | — Member |
| 5. Shri S. B. Rao,
Indian Statistical Institute,
Calcutta,
(Nominee of the ISI). | — Member |
| 6. Director General, CSO & Addl. Secy.
Department of Statistics,
New Delhi. | — Member |
| 7. Financial Adviser,
Department of Statistics,
New Delhi. | — Member |
| 8. Deputy Secretary,
Department of Statistics
New Delhi. | — Member Secretary |

and assigns the following duties to the said Committee, namely :—

- (1) Review of the agreed programme of work (both Plan and Non-Plan) and make recommendations regarding the amount to be provided in the RE 1989-90, and also make recommendations regarding the financial estimates for 1990-91 for paying grant-in-aid to the ISI.
- (2) (a) Preparation and submission to the Central Government of Statements showing programmes of work (both Plan and Non-Plan) agreed to be undertaken by the Indian Statistical Institute, Calcutta, during the year 1990-91, for which the Central Government may provide funds, as well as general financial estimates of such work.
- (b) the settlement on broad lines of the programme of work.
2. The Committee shall submit its Report to the Government before 31st March, 1990.
3. The Department of Statistics shall render secretariat assistance to the Committee, the headquarters of which will be at new Delhi.

[No. : M-12011/3/89-Coord.]
NAWAL KISHORE, Dy. Secy.

उद्योग मंत्रालय

(औद्योगिक विकास विभाग)

नई दिल्ली, 10 जुलाई, 1989

का.भा. 2788:—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 के नियम 10 के उपनियम (4) के अनुसरण में निम्नलिखित कार्यालयों को, जिनके 80 प्रतिशत कर्मचारी बुंद ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :-

(क) विस्फोटक विभाग, नागपुर

1. उप मुख्य विस्फोटक नियंत्रक का कार्यालय, उत्तरी अंचल, आगरा ।
2. उप मुख्य विस्फोटक नियंत्रक का कार्यालय, पूर्वी अंचल, कलकत्ता ।
3. उप मुख्य विस्फोटक नियंत्रक का कार्यालय, पश्चिमी अंचल, बम्बई ।

4. विस्फोटक नियंत्रक का कार्यालय, भोपाल ।
5. उप विस्फोटक नियंत्रक का कार्यालय, भंडारा ।
6. विस्फोटक नियंत्रक का कार्यालय, चण्डीगढ़ ।
7. विस्फोटक नियंत्रक का कार्यालय, जयपुर ।
8. उप विस्फोटक नियंत्रक का कार्यालय, गोमिया ।
9. विस्फोटक नियंत्रक का कार्यालय, हैदराबाद ।
10. विस्फोटक नियंत्रक का कार्यालय, हजारीबाग ।
11. विस्फोटक नियंत्रक का कार्यालय, राउरकेला ।

(ख) खादी और ग्रामोद्योग आयोग, बम्बई ।

12. क्षेत्रीय कार्यालय, खादी ग्रामोद्योग आयोग, वाराणसी ।
13. राज्य कार्यालय, खादी और ग्रामोद्योग आयोग, चण्डीगढ़ ।
14. क्षेत्रीय कार्यालय, खादी और ग्रामोद्योग आयोग, हल्द्वानी ।
15. क्षेत्रीय कार्यालय, खादी और ग्रामोद्योग आयोग, मेरठ ।
16. उप-कार्यालय, खादी और ग्रामोद्योग आयोग, रांची ।
17. उप कार्यालय, खादी और ग्रामोद्योग आयोग, पोर्ट ब्लेयर ।

18. उप कार्यालय, खादी और ग्रामोद्योग आयोग, झांसी ।
19. उप कार्यालय, खादी और ग्रामोद्योग आयोग, बीकानेर ।
- (ग) विकास आयुक्त (लघु उद्योग) का कार्यालय, नई दिल्ली
20. लघु उद्योग सेवा संस्थान, रांची ।
21. लघु उद्योग सेवा संस्थान, मुजफ्फरपुर ।
22. लघु उद्योग सेवा संस्थान, ओखला, नई दिल्ली ।
23. लघु उद्योग सेवा संस्थान, जयपुर ।
24. लघु उद्योग सेवा संस्थान, इन्दौर ।
25. लघु उद्योग सेवा संस्थान, कानपुर ।
26. लघु उद्योग सेवा संस्थान, आगरा ।
27. लघु उद्योग सेवा संस्थान, इलाहाबाद ।
28. लघु उद्योग सेवा संस्थान, करनाल ।
29. लघु उद्योग सेवा संस्थान, हल्द्वानी ।
30. शाखा लघु उद्योग सेवा संस्थान, वाराणसी ।
31. शाखा लघु उद्योग सेवा संस्थान, भिवानी ।
32. शाखा लघु उद्योग सेवा संस्थान, ग्वालियर ।
33. शाखा लघु उद्योग सेवा संस्थान, औरंगाबाद ।
34. लघु उद्योग विस्तार केन्द्र, अम्बाला कैट ।
35. लघु उद्योग विस्तार केन्द्र, रिवाड़ी ।
36. शाखा लघु उद्योग सेवा संस्थान, न्यू ईटानगर ।
37. क्षेत्रीय परीक्षण केन्द्र, ओखला, नई दिल्ली ।
38. क्षेत्रीय परीक्षण केन्द्र, बम्बई ।
39. लघु उद्योग विस्तार केन्द्र, फिरोजाबाद ।
40. लघु उद्योग सेवा संस्थान, त्रिचूर ।
41. लघु उद्योग सेवा संस्थान, अहमदाबाद ।
42. लघु उद्योग सेवा संस्थान, नागपुर ।
43. उत्पादन केन्द्र निदेशालय, एट्टमूर ।
44. फील्ड टेस्टिंग स्टेशन, स्मालखा ।
45. लघु उद्योग सेवा संस्थान, हुबली ।
46. लघु उद्योग सेवा संस्थान, लुधियाना ।
47. क्षेत्रीय परीक्षण केन्द्र, जयपुर ।
48. लघु उद्योग सेवा संस्थान, विस्तार केन्द्र, उज्जैन ।
49. लघु उद्योग सेवा संस्थान, विस्तार केन्द्र, जबलपुर ।
50. लघु उद्योग सेवा संस्थान, शाखा संस्थान जम्मू ।
51. लघु उद्योग सेवा संस्थान, शाखा कार्यालय, रीवा ।
52. लघु उद्योग सेवा संस्थान, शाखा संस्थान, तूरा ।
53. फील्ड टेस्टिंग स्टेशन, भोपाल ।
54. लघु उद्योग सेवा संस्थान, शाखा संस्थान, सिलवासा ।
55. लघु उद्योग सेवा संस्थान विस्तार केन्द्र, जामनगर ।
56. लघु उद्योग सेवा संस्थान, विस्तार केन्द्र, नदियाबाद ।

- (घ) विकास आयुक्त सीमेंट उद्योग का कार्यालय, नई दिल्ली ।
57. क्षेत्रीय विकास आयुक्त कार्यालय, दिल्ली ।
58. क्षेत्रीय विकास आयुक्त कार्यालय, कलकत्ता ।
59. सहायक क्षेत्रीय विकास आयुक्त का कार्यालय, अहमदाबाद ।
60. सहायक क्षेत्रीय विकास आयुक्त कार्यालय, गौहाटी ।
- (ङ) राष्ट्रीयता उत्पादकता परिषद, नई दिल्ली ।
61. क्षेत्रीय निदेशालय, राष्ट्रीय उत्पादकता परिषद, पटना ।
62. क्षेत्रीय निदेशालय, राष्ट्रीय उत्पादकता परिषद, कानपुर ।
- (च) राष्ट्रीय लघु उद्योग लिमिटेड, नई दिल्ली ।
63. क्षेत्रीय कार्यालय, राष्ट्रीय लघु उद्योग निगम लिमिटेड, दिल्ली ।
64. क्षेत्रीय कार्यालय, राष्ट्रीय लघु उद्योग निगम लिमिटेड, बम्बई ।
65. प्रोटोटाइप विकास तथा प्रशिक्षण केन्द्र, ओखला, नई दिल्ली ।
66. प्रोटोटाइप विकास तथा प्रशिक्षण केन्द्र, राजकोट ।
67. शाखा कार्यालय, राष्ट्रीय लघु उद्योग निगम लिमिटेड, जयपुर ।
68. शाखा कार्यालय, राष्ट्रीय लघु उद्योग निगम लिमिटेड, कानपुर ।
69. शाखा कार्यालय, राष्ट्रीय लघु उद्योग निगम लिमिटेड, भोपाल ।
70. शाखा कार्यालय, राष्ट्रीय लघु उद्योग निगम लिमिटेड, राजकोट ।
71. निर्माण कार्य प्रभाग, नैनी ।
72. प्रोटोटाइप विकास तथा प्रशिक्षण उप केन्द्र, अलीगढ़ ।
73. प्रोटोटाइप विकास तथा प्रशिक्षण उप केन्द्र, काशीपुर

[सं. ई-12012/1/87 हिन्दी]

रवीन्द्र कुमार सिन्हा, संयुक्त सचिव

MINISTRY OF INDUSTRY

(Deptt. of Industrial Development)

New Delhi, the 10th July, 1989

S.O. 2788.—In pursuance of Sub-rule (4) of Rule 10 of the Official Language (use for official purposes of the Union) Rules, 1976, the Central Govt. hereby notifies the following offices whose 80 per cent staff have acquired working knowledge of Hindi :—

(a) Département of Explosives, Nagpur

1. Office of the Dy. Chief Controller of Explosives, Northern Region, Agra.
2. Office of the Dy. Chief Controller of Explosives, Eastern Region, Calcutta.
3. Office of the Dy. Chief Controller of Explosives, Western Region, Bombay.
4. Office of the Controller of Explosives, Bhopal.

5. Office of the Dy. Controller of Explosives, Bhandara.
6. Office of the Controller of Explosives, Chandigarh.
7. Office of the Controller of Explosives, Jaipur.
8. Office of the Dy. Controller of Explosives, Gomla.
9. Office of the Controller of Explosives, Hyderabad.
10. Office of the Controller of Explosives, Hajaribagh.
11. Office of the Controller of Explosives, Rourkela.
- (b) KVIC, Bombay.
12. Regional Office, KVIC, Varanasi.
13. State Office, KVIC, Chandigarh.
14. Regional Office, KVIC, Haldwani.
15. Regional Office, KVIC, Meerut.
16. Sub-Office, KVIC, Ranchi.
17. Sub Office, KVIC, Portblair.
18. Sub Office, KVIC, Jhansi.
19. Sub Office, KVIC, Bikaner.
- (c) Office of the DC(SI), New Delhi.
20. SISI, Ranchi.
21. SISI, Mujafterpur.
22. SISI, Okhla, New Delhi.
23. SISI, Jaipur.
24. SISI, Indore.
25. SISI, Kanpur.
26. SISI, Agra.
27. SISI, Allahabad.
28. SISI, Karnal.
29. SISI, Branch Office, Haldwani.
30. SISI, Branch Office, Varansi.
31. SISI, Branch, Office, Bhiwani.
32. SISI, Branch Office, Gwalior.
33. SISI, Branch Office, Aurangabad.
34. SISI, Extension Centre, Ambala Cantt.
35. SISI, Extension Centre, Rewari.
36. SISI, Branch Office, New Itanagar.
37. Regional Testing Centre, Okhla, New Delhi.
38. Regional Testing Centre, Bombay.
39. Small Industries Extension Centre, Firozabad.
40. SISI, Trichur.
41. SISI, Ahmedabad.
42. SISI, Nagpur.
43. Directorate of Production Centre, Ettumanur.
44. Field Testing Station, Smalkha.
45. SISI, Hugli.
46. SISI, Ludhiana.
47. Regional Testing Centre, Jalpur.
48. SISI, Extension Centre, Ujjain.
49. SISI, Extension Centre, Jaipur.
50. SISI, Branch Institute, Jammu.
51. SISI, Branch Institute, Rewa.
52. SISI, Branch Institute, Toora.
53. Field Testing Station, Bhopal.
54. SISI, Branch Institute, Silwasa.
55. SISI, Extension Centre, Jamnagar.
56. SISI, Extension, Centre Nadiyad.
- (d) Office of the DC(Cement Industry), New Delhi.
57. Office of the Regional D. C., Delhi.
58. Office of the Regional D. C., Calcutta.
59. Office of the Asstt. Regional D. C., Ahmedabad.
60. Office of the Asstt. Regional D. C., Gauhati.
- (e) National Productivity Council, New Delhi.
61. Regional Directorate, N.P.C., Patna.
62. Regional Directorate, N.P.C., Kanpur.
- (f) N.S.I.C., New Delhi.
63. Regional Office, NSIC Ltd., Delhi.
64. Regional Office, NSIC Ltd., Bombay.
65. Prototype Development & Training Centre, Okhla, New Delhi.
66. Prototype Development & Trading Centre, Rajkot.
67. Branch Office, NSIC Ltd. Jaipur.
68. Branch Office, NSIC Ltd., Kanpur.
69. Branch Office, NSIC Ltd., Bhopal.
70. Branch Office, NSIC Ltd., Rajkot.
71. Works Deptt., Naini.
72. Prototype Development & Training Sub Centre, Aligarh.
73. Prototype Development & Training Sub Centre, Kasipur.

[No. E-12012/1/87-Hindi]

R. K. SINHA, Jr. Secy.

ऊर्जा मंत्रालय

(कोयला विभाग)

नई दिल्ली, 5 अक्टूबर, 1989

का. आ. 2789.—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उगावद्ध अनुसूची में उल्लिखित भूमि में कोयला अभि-
प्राप्त किए जाने की संभावना है ;

अतः केन्द्रीय सरकार कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम 1957 (1957 का 20) की धारा 4 की
उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस क्षेत्र में कोयले का पूर्वेक्षण करने के अपने आशय की सूचना देती है ;

इस अधिसूचना के अधीन आने वाले क्षेत्र के रेखांक सं. सी-1(ई)/III/जे आर-439-0789 तारीख 4 जुलाई 1989 का
निरीक्षण वेस्टर्न कोलफील्ड्स लि. (राजस्व विभाग) कोल एस्टेट सिविल लाइन, नागपुर-440001 (महाराष्ट्र) के कार्यालय

या कलक्टर चन्द्रपुर (महाराष्ट्र) के कार्यालय या कोयला नियंत्रक 1 काउंसिल हाउस स्ट्रीट कलकत्ता के कार्यालय में किया जा सकता है ।

इस अधिसूचना के अधीन आने वाली भूमि में हितवद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, चार्टों और अन्य दस्तावेजों को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर राजस्व अधिकारी वेस्टर्न कोलफील्ड्स लि. कोल एस्टेट मिनिंग लाइन, नागपुर-440001 को देगा ।

अनुसूची

चारगांव ब्लाक

वाणी क्षेत्र

जिला चन्द्रपुर (महाराष्ट्र)

रेखांक सं. सी-1(ई)/III/जे जे आर/439-0789 तारीख 4 जुलाई 1989

क्र. सं.	ग्राम का नाम	पदवारी सकिल संख्या	तहसील	जिला	क्षेत्रफल हैक्टर में	टिप्पणियां
1.	कुनाद	28	भद्रावती	चन्द्रपुर	337.86	भाग
2.	चारगांव	28	भद्रावती	चन्द्रपुर	504.54	भाग
कुल क्षेत्र : 842.40 हैक्टर (लगभग)						
या 2081.57 एकड़ (लगभग)						

सीमा वर्णन :

क—ख रेखा “क” बिन्दु से आरंभ होती है और ग्राम कुनाद में से होकर जाती है और बिन्दु “ख” पर मिलती है ।

ख—ग—घ रेखा ग्राम चारगांव की बाहरी सीमा के साथ साथ है और बिन्दु “घ” पर मिलती है ।

घ—क रेखा बर्धा नदी के उत्तरी और पूर्वी किनारे के साथ साथ जाती है और आरंभिक बिन्दु “क” पर मिलती है ।

[सं. 43015/14/89-एल.एम. डब्ल्यू.]

MINISTRY OF ENERGY

(Department of Coal)

New Delhi, the 5th October, 1989

S.O. 2789.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby gives notice of its intention to prospect for coal therein;

The plan bearing No. C-1(EI)/IJ/JJR/439-0789, dated the 4th July, 1989 the area covered by this notification can be inspected at the office of the Western Coalfields Limited (Revenue Department) Coal Estate, Civil Lines, Nagpur-440 001 (Maharashtra) or at the Office of the Collector, Chandrapur, Maharashtra or at the office of the Coal Controller, 1, Council House Street, Calcutta.

All persons interested in the lands covered by this notification shall deliver all maps, charts and other documents referred to in sub-section (7) of Section 13 of the said Act to the Revenue Officer, Western Coalfields Limited, Coal Estate, Civil Lines, Nagpur-440 001, within ninety days from the date of publication of this notification.

THE SCHEDULE
CHARGAON BLOCK
WANI AREA

DISTRICT CHANDRAPUR (MAHARASHTRA)

Plan No. C-1(E)/III/JJR/437-0787, dated the 4th July, 1989

S. No.	Name of the Village	Patwari circle number	Tahsil	District	Area in hectares	Remarks
1.	Kunad	28	Bhadravati	Chandrapur	337-86	Part
2.	Chargaon	28	Bhadravati	Chandrapur	504-54	Part
Total :					842-40 hectares (approximately)	
or					2081-57 acres (approximately).	

Boundary description :

- A-B : Line starts from point 'A', and passes through village Kunad and meets at point 'B'.
 B-C-D : Line passes along the outer boundary of village Chargaon and meets at point 'D'.
 D-A : Line passes along the Northern and Eastern bank of Wardha River and meets at starting point 'A'.

[No. 43015/14/89-LSW]

शुद्धि-पत्र

का.आ. 2790:— भारत के राजपत्र भाग 2, खंड 3, उपखंड (ii) तारीख 11 मार्च, 1989 में पृष्ठ 584 में 585 पर प्रकाशित भारत सरकार के ऊर्जा मंत्रालय (कोयला विभाग) की अधिसूचना सं. का.आ. 471, तारीख 8 फरवरी, 1989 में—
 पृष्ठ 584 पर

- (1) अधिसूचना में "हेक्टर (लाना)" के स्थान पर "हेक्टर (लगभग)" पढ़िए । (2) स्पष्टीकरण में (3) "अर्जित कर लिए जाने" के स्थान पर "अर्जित कर जाने" पढ़िए ।

- (3) ग्राम मावनेर में अर्जित किए जाने वाले प्लॉट संख्या में "561/7, 561/8 भाग" के स्थान पर "561/7 भाग, 561/8 भाग" पढ़िए ।

- (4) सीमा वर्णन में रेखा क-ख में "नदी के ऊपरी किनारे" के स्थान पर "नदी के उत्तरी किनारे" पढ़िए ।

- (5) रेखा घ-क में "553/3-4" के स्थान पर "553/3 4" पढ़िए ।

[फा.सं. 43015/4/86-सी.ए./एल.एम.डब्ल्यू.]

CORRIGENDA

S.O. 2790.—In the notification of the Government of India in the Ministry of Energy (Department of coal) number S. O. 471, dated the 8th February, 1989, published in the Gazette of India, Part-II, Section 3, Sub-section (ii), dated the 11th March, 1989, at page 585,—

1. In column 1.—

- (1) in line 2, for "Fenergy" read "Energy".

(2) in line 13, for "Miinstry" read "Ministry".

2. In column 2,—in line 10, for "that the himself" read "that he himself".

3. In the Schedule,—

(1) in line 9, for "approximatey" read "approximately".

(2) in line 24, for "553/3-4 to 554/3-4 to 556" read "553/3-4—554/3-4, 556";

(3) in line 25 for "561/10 to 561/11" read "5561/10-561/11".

[No. 43015/4/86-CA/LSW]

शुद्धि-पत्र

का. आ. 2791:—जबकि कोयलाधारी क्षेत्र (अर्जन और विकास) अधिनियम 1957 (1957 का 20) की धारा 7 की उपधारा (1) के अधीन जारी और भारत के असाधारण राजपत्र के भाग-II खंड 3 उपखंड (ii) 7 7 अक्टूबर, (1988 की पृष्ठ संख्या 1 से 7 पर प्रकाशित भारत के ऊर्जा मंत्रालय कोयला विभाग की अधिसूचना कां. आ. सं. 934 (ई), दिनांक 7 अक्टूबर 1988 द्वारा केन्द्रीय सरकार के उप अधिसूचना के साथ संलग्न अनुसूची में उल्लिखित भूमि का अधिग्रहण करने की अपने आशय की सूचना दी थी ।

और जबकि केन्द्रीय सरकार की जानकारी में यह लाया गया है कि असाधारण राजपत्र में उक्त अधिसूचना के प्रकाशन में छपाई कुछ अशुद्धियां रह गई हैं ।

इस लिए अब उक्त अधिनियम की धारा 7 की उपधारा (1) द्वारा प्रवृत्त शक्तियों का और इस संबंध में प्राप्त अन्य सभी शक्तियों का प्रयोग करते हुए, केन्द्रीय

सरकार उक्त अधिनियम के साथ संलग्न अनुसूची में निम्न-लिखित संशोधन करती है।

पृष्ठ 1 पर

(1) अधिसूचना में "161.45 हेक्टर" के स्थान पर "161.45 हेक्टर" पढ़िए।

पृष्ठ 2 पर

(2) रेखाक "सं. 1 सी" के स्थान पर "रेखाक सं. सी-1" पढ़िए। और "वेस्टन" के स्थान पर "वेस्टर्न" पढ़िए।

(3) अनुसूची क 1 में उबरी (रीडी) ग्रामा में अजित किए जाने वाले प्लॉट संख्या "9 से 24" के स्थान पर "19 से 24" पढ़िए और "39 से 4" के स्थान पर "39 से 41" पढ़िए और "44/1/45" के स्थान पर "44/1-45" पढ़िए।

(4) बाघोडा ग्राम में अजित किए जाने वाले प्लॉट संख्या में "65/1/64" के स्थान पर "65/1-64" पढ़िए और 65/2-66/21-67/1 के स्थान पर "65/2-66/1-67/1" पढ़िए।

सीमा वर्णन में :—

(5) रेखा ज-क में "बाघोडा" के स्थान पर "बाघोडा" पढ़िए और जहां कहीं यह शब्द प्रयुक्त हुआ हो उसी स्थान पर "बाघोडा" पढ़िए और "33/1" के स्थान पर "13/1" पढ़िए।

पृष्ठ 3 पर

(6) अनुसूची क 2 में "सनन अधिकार" के स्थान पर "खनन अधिकार" पढ़िए।

(8) साबनेर ग्राम में अजित किए जाने वाले प्लॉट संख्या में "600/11 ई" के स्थान पर "600/11" पढ़िए और "636/1 636/ 2" के स्थान पर "637/1 -63/2" पढ़िए। 637/1 —637 1/637 के स्थान पर "637/1 637/2" पढ़िए।

(8) रेखा "ट-ज" के स्थान पर रेखा "ठ-ज" पढ़िए।

अनुसूची क 3 में:

(9) क्रम. 1 में ग्राम का नाम स्तंभ के नीचे "अंगेवाडा" के स्थान पर "आंगेवाडा" पढ़िए और जहां कहीं यह शब्द प्रयुक्त हुआ हो उसी स्थान पर "आंगेवाडा" पढ़िए।

(10) ग्राम आंगेवाडा में अजित किए जाने वाले प्लॉट संख्या में 1/5, 2/4, 2/2 के स्थान पर

"1/5, 2/1, 2/2" पढ़िए और "3भाग" के स्थान पर "13भाग" पढ़िए।

सीमा वर्णन:

(11) रेखा "त-व" के स्थान पर रेखा "त-ग" पढ़िए।

(12) रेखा "ग-घ" में और भानतः प्लॉट सं. 13 के स्थान पर "और भानतः प्लॉट सं. 13" पढ़िए और बिन्दु "ग" पर मिलती है के स्थान पर बिन्दु "घ" पर मिलती है पढ़िए।

(13) रेखा छ-घ में "58" के स्थान पर "53" पढ़िए।

पृष्ठ 4 पर

अनुसूची में

(14) बोरगाव वृजलक ग्राम में अजित किए जाने वाले प्लॉट संख्या में "47/1-2 भाग" के स्थान पर "46/1-2 भाग" पढ़िए और "56 57" के स्थान पर "56/1-2 57" पढ़िए।

सीमा वर्णन में :

(15) रेखा "ख-ग" में "कोरगाव (छोटे)" के स्थान पर "बोरगाव (छोटे)", पढ़िए और "पटका-लेंडा" के स्थान पर "पटकाखेडी" पढ़िए और जहां कहीं यह शब्द प्रयुक्त हुआ हो उसी स्थान पर "बोरगाव (छोटे) और पटकाखेडी" पढ़िए।

उपर्युक्त संशोधन में से संबंधित किसी भी भूमि से हितबद्ध कोई व्यक्ति इस अधिसूचना के जारी होने के 30 दिन के अंदर उक्त पूरी भूमि के अथवा उसके किसी भाग के अधिग्रहण पर अथवा उक्त अधिनियम को धारा 8 की उपधारा (i) की व्यवस्था के अनुसार ऐसे किसी भूमि पर किसी प्रकार के अधिकार अधिग्रहण पर आपत्ति कर सकता है।

[फा. सं. 43015/4/86-सी० ए० एन० एस० डब्ल्यू०]

CORRIGENDUM

S.O. 2791.—In the notification of the Government of India in the Ministry of Energy (Department of Coal), S.O. No. 934(E), dated the 7th October, 1988, published in the Gazette of India Extra ordinary, Part II, Section 3, sub-section (ii) dated the 7th October, 1988 at pages 4 to 7,—

1. at page 4, in line 33, for "ii" read "in".

2. at page 5,—

(1) in column 1, in line 20, for "operationt" read "operation".

(2) in column 2,—

(a) in line 3, for "14, 1/2" read "14/1-2";

(b) in line 9, for "91, Part" read "91 Part";

(c) in line 13, for "10/3-4-11, 2-3" read "10/3-4-11/2-3" and for "11, 1" read "11/1";

(d) in line 15, for "18Gh" read "18/1 Gh";

(e) in line 34, and 35, for "of 4 Kolar" read "of Kolar".

3. at page 6,—

(1) in column 1,

- (a) in line 5, for "Maharash" read "Maharashtra";
- (b) in line 33, for "pass" read "passes";
- (c) in line 34, for "number" read "numbers".

(2) in column 2,—

- (a) in line 17, for "though" read "through";
- (b) in line 46, for "N1" read "Nagpur";
- (c) in line 48, for "Napur" read "Nagpur".

4. at page 7,—

(1) in column 1, in line 12, for "86/87-2" read "86-87/2";

(2) in column 2,—

- (a) in line 3, for "(Dhotet)" read "(Dhote)";
- (b) in line 16, for "Lne" read "Line".

Any person interested in any land in respect of which the above corrections has been made may, within thirty days of the issue of this corrigendum, object to the acquisition of the whole or any part of the said land or any rights in any of such land in terms of sub-section (1) of section 8 of the said Act.

[No. 43015/4/86-CA/LSW]

शुद्धि-पत्र

नई दिल्ली, 6 अक्टूबर, 1989

का० आ० 2792 :—भारत के राजपत्र भाग-2 खंड-3 उपखंड (II) तारीख 11 मार्च, 1989 के पृष्ठ सं० 582 पर प्रकाशित भारत सरकार के उर्जा मंत्रालय, कोयला विभाग की अधिसूचना का० आ० सं० 469 तारीख 1 फरवरी 1989 में :—

1 पंक्ति 10 में— "कलक्टर शाहदोल" शब्दों के स्थान पर "कलक्टर शाहदोल" पढ़ें।

2. पंक्ति 13 में— "कितबद्ध" शब्द के स्थान पर "हितबद्ध" शब्द पढ़ें।

3. पंक्ति 16 में— "साउथ" शब्द के स्थान पर "साउथ" शब्द पढ़ें।

पंक्ति 1 में अनुसूची सं०

"जमुना—कोटमा" विस्तार ब्लॉक (ब्लॉक क) "शब्दों के स्थान पर "जमुना—कोटमा विस्तार ब्लॉक (ब्लॉक क)" पढ़ें।

पंक्ति 2 में— "जमुना—कोटमा कोलफील्ड्स" शब्दों के स्थान पर "जमुना कोटमा कोलफील्ड्स पढ़ें।"

सारणी में "ग्राम का नाम" स्तंभ के नीचे।

क्रम सं० 2 और उसके पश्चात् जहाँ कहीं भी "पासन" शब्द का प्रयोग हुआ हो वहाँ "पसान" शब्द पढ़ें।

"बन्दोबस्त सं० "स्तंभ के नीचे

क्रम सं० 2 के सामने "80" अंक के स्थान पर "580" पढ़ें।

"तड़पीट स्तंभ के नीचे

क्रम सं० 1 और 2 के सामने "अनुपुर" शब्द के स्थान पर "अनुपपुर" शब्द पढ़ें।

[सं० 43015/16/88-ए० एम० डब्ल्यू०]

New Delhi, the 6th October, 1989

S.O. 2792.—In the notification of the Government of India in the Ministry of Energy (Department of Coal) S. O. No. 469, dated the 1st February, 1989, published at pages 582 and 583 of the Gazette of India, Part-II, section 3, sub-section (ii), dated the 11th March, 1989, at page 582, in the 9th line, for "limited" and "Bilaspur", read "limited" and "Bilaspur" respectively.

[No. 43015/16/83-LSW]

नई दिल्ली, 16 अक्टूबर, 1989

का. आ. 2793 :—केन्द्रीय सरकार ने, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 7 की उपधारा (1) के अधीन निकाली गई, भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii) में पृष्ठ 355 से 358 पर प्रकाशित भारत सरकार के उर्जा मंत्रालय (कोयला विभाग) की अधिसूचना का. आ. सं. 298 तारीख 6 फरवरी, 1989 द्वारा उस अधिसूचना से उपाबद्ध अनुसूची में उल्लिखित भूमि को अर्जित करने के अपने आशय की सूचना दी थी।

और केन्द्रीय सरकार की जानकारी में यह ला दिया गया है कि राजपत्र में उक्त अधिसूचना के प्रकाशन में मुद्रण प्रकृति की कतिपय त्रुटियाँ हो गई हैं ;

अतः केन्द्रीय सरकार उक्त अधिनियम की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों और इस निमित्त समर्थ बनाने वाली सभी अन्य शक्तियों का प्रयोग करते हुए, उक्त अधिसूचना से उपाबद्ध अनुसूची में निम्नलिखित संशोधन करती है

पृष्ठ 356 पर

अनुसूची में:—

सारणी में ग्राम स्तंभ के नीचे—

क्रम संख्यांक 6

"बरतूर के स्थान पर "बरतरा" पढ़ें।

सारणी में क्षेत्र हेक्टर में स्तंभ के नीचे—

क्रम संख्यांक

"10.256" के स्थान पर "10.5326" पढ़ें।

पृष्ठ संख्यांक 358 पर

"ग्राम खलनपथ" के स्थान पर "ग्राम खलनाथ" पढ़ें।

"ग्राम छिरिहटी" के स्थान पर ग्राम छिरिहटी" पढ़ें।

उपर शुद्धि किए गए ऐसे प्लेट संख्यांक में हितबद्ध व्यक्ति जिनकी बाबत संशोधन जारी किए गए हैं, इस अधिसूचना के जारी करने के तीस दिन के भीतर उक्त

भूमि के संपूर्ण या किसी भाग या ऐसे प्लॉट में किसी अधिकार के अर्जन का उक्त अधिनियम की धारा 8 की उप-धारा (1) के अर्थात्तरगत आक्षेप भेज सकते हैं।

[सं. 43015/30/85-सी. ए./एल.एस.डब्ल्यू.]

New Delhi, the 16th October, 1989

S.O. 2793.—Whereas by the notification of the Government of India in the Ministry of Energy (Department of Coal) S. O. No. 298, dated the 6th February, 1989 published in the Gazette of India, Part II, section 3, sub-section (ii), at pages 359 to 361 issued under sub-section (1) of section 7 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) the Central Government gave notice of its intention to acquire the lands described in the Schedule appended to that notification;

And whereas, it has been brought to the notice of the Central Government that certain errors of printing nature have occurred in the publication of the said notification in the Gazette;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 7 of the said Act and of all other powers enabling it in this behalf the Central Government hereby amends the Schedule appended to the said notification as follows :—

(i) At page 359, in Explanation (3) :—

in the 4th line, for “any right”, read “any rights”;

(ii) At page 360 :—

for “village Karkati K (Part)”, read “village Karkati (Part)”;

(iii) In plot numbers to be acquired in village Bartara (part) :—

in the 2nd line, for “488”, read “448”; and in the 5th line, for “1222(P)”, read “1227(P)”;

(iv) At page 361, in plot numbers to be acquired in village Khalnath (part) :—

in the 3rd line, for “1310(P)” read “1301(P)”.

(v) In Boundary Description :

in the line C-D 2nd line, for “261”, read “263”.

Persons interested in the plot numbers corrected above, in respect of which this amendment has been issued, may, within thirty days of the issue of this notification, object to the acquisition of the whole or any part of the said land, or any rights in any of such plot in terms of sub-section (1) of section 8 of the said Act.

[No. 43015/30/85-CA/LSW]

शुद्धि-पत्र

नई दिल्ली, 18 अक्टूबर, 1989

का. आ. 2794—भारत के राजपत्र भाग 2, खंड 3, उपखंड (ii) तारीख 29 अप्रैल, 1989 पृष्ठ क्रमांक 1122 से 1123 पर प्रकाशित भारत सरकार के उर्जा मंत्रालय (कोयला विभाग) की अधिसूचना का. आ. सं. 910 तारीख 19 अप्रैल, 1989 में :—

पृष्ठ 1122 पर—

(1) अनुसूची में क्रम संख्याक 7 में “हेक्टर में क्षेत्र” स्तम्भ के नीचे “108.56” सम्पूर्ण अंकों और शब्दों के स्थान पर “108.58 सम्पूर्ण अंक और शब्द पढ़िए।

(2) क्रम संख्याक 12 में “पटवारी सफिल संख्याक स्तम्भ के नीचे “12” के स्थान पर “13” पढ़िए)

[का. सं. 43015/21/86-सी. ए./एल. एस. डब्ल्यू.]

का.आ. 2795 :—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाखण्ड अनुसूची में उल्लिखित भूमि में कोयला अवि-प्राप्त किए जाने की संभावना है ;

अतः केन्द्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस क्षेत्र में कोयले का पूर्वोक्षण करने के अपने आशय की सूचना देता है ;

इस अधिसूचना के अधीन आने वाले क्षेत्र के रेखांक सं. सी-1(ई)/III/जी. आर./440/0789, तारीख 25 जुलाई, 1989 का निरीक्षण वेस्टर्न कोलफील्ड्स लि. (राजस्व विभाग), कोल एस्टेट सिविल लाइन्स नागपुर-440001 के कार्यालय में या कलकटर छिन्दवाड़ा (मध्य प्रदेश) के कार्यालय में या कोयला नियंत्रक, 1-काउंसिल हाउस स्ट्रीट, कलकत्ता के कार्यालय में किया जा सकता है।

इस अधिसूचना के अधीन आने वाली भूमि में हितबद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, चार्टों और अन्य दस्तावेजों को, इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर, राजस्व अधिकारी, वेस्टर्न कोलफील्ड्स लि. कोल एस्टेट, सिविल लाइन्स नागपुर-440001 को भेजें।

अनुसूची
उर्ध्वन ब्लॉक
पेंच क्षेत्र
जिला छिन्दवाड़ा

रेखांक सं. सी-1(ई)/III/जी आर/440/0789 तारीख 25 जुलाई 1989

क्र. सं.	ग्राम का नाम	पटवारी सिकिल सं.	बंशोवस्त सं.	तहसील	क्षेत्र हेक्टर में	टिप्पणियाँ
1.	उर्ध्वन	66	24	पारसिया छिन्दवाड़ा	595.996	पूर्ण
2.	जमुनिया	66	192	यथोक्ता	558.498	पूर्ण
		कुल क्षेत्र :		1154.494 हेक्टर	(लगभग)	
		या		2852.82 एकड़	(लगभग)	

सीमा वर्णन :

क-ख-ग : रेखा "क" बिन्दु से आरम्भ होती है और ग्राम उर्ध्वन की बाहरी सीमा के साथ-साथ जाती है और बिन्दु "ग" पर मिलती है ।

ग-घ-ङ- रेखा ग्राम जमुनिया की बाहरी सीमा के साथ-साथ जाती है और बिन्दु "ज" पर मिलती है ।

घ-छ-ज :

ज-झ-ञ- रेखा ग्राम जमुनिया और उर्ध्वन की बाहरी सीमा के साथ-साथ जाती है और आरंभिक बिन्दु "क" पर मिलती है

ट-ठ-क :

[फा. सं. 43015/5/89-एल. एस. डब्ल्यू]

ब्री. बा. राय, अवर सचिव

New Delhi, the 18th October, 1989

S.O. 2795.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands in the locality mentioned in the Schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby gives notice of its intention to prospect for coal therein.

The plan bearing No. C-1(E)/III/GR/440/0789, dated 25th July, 1989 of the area covered by this notification can be inspected at the Office of the Western Coalfields Limited (Revenue Department), Coal Estate, Civil Lines, Nagpur-440 001 or at the Office of the Collector, Chhindwara (Madhya Pradesh) or at the Office of the Coal Controller, 1, Council House Street, Calcutta.

All persons interested in the lands covered by this notification shall deliver all maps, charts and other documents referred to in sub-section(7) of section 13 of the said Act to the Revenue Officer, Western Coalfields Limited, Coal Estate Civil Lines, Nagpur-440 001 within ninety days from the date of publication of this notification in the Official Gazette.

SCHEDULE
URDHAN BLOCK
PENCH AREA
DISTRICT CHHINDWARA (MADHYA PRADESH)
Plan No. C-1(E)/III/GR/440/0789, dated the 25th July, 1989

S. No.	Name of the Village	Patwari circle number	Settlement number	Tahsil	District	Area in hectares	Remarks
1.	Urdhan	66	24	Parasia	Chhindwara	595.996	Full
2.	Jamunja	66	192	Parasia	Chhindwara	558.498	Full
Total Area —						1754.496 hectares (approximately)	
OR						2852.82 acres (approximately)	

Boundary description :

A-B-C : Line starts from point 'A' and passes along the outer boundary of village Urdhan and meets at point 'C'.

C-D-E-

F-G-H : Line passes along the outer boundary of village Jamunia and meets at point 'H'.

H-I-J-

K-L-A : Line passes along the outer boundary of villages Jamunia and Urdhan and meets at starting point 'A'.

[No. 43015/15/89-LSW]

B.B. RAO, Under Secy.

नई दिल्ली, 19 अक्टूबर, 1989

का. आ. 2796—केन्द्रीय सरकार, उर्जा मंत्रालय (कोयला विभाग) के प्रशासनिक नियंत्रणाधीन, निम्नलिखित कार्यालयों को, जिनके 80% कर्मचारीवृद्ध ने हिंदी का कार्य साधक ज्ञान प्राप्त कर लिया है, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियमावली, 1976 के नियम 10 के उप नियम (4) के अंतर्गत अधिसूचित करती है :—

- (1) क्षेत्रीय विक्रय कार्यालय,
कोल इंडिया लि.,
32, शामला रोड,
सिविल लाइन्स,
भोपाल-462002.

- (2) क्षेत्रीय विक्रय कार्यालय,
कोल इंडिया लि.,
के-11(बी),
अशोक मार्ग,
सी-स्कीम,
जयपुर-302001,

- (3) शाखा कार्यालय,
कोल इंडिया लि.,
113/131(ए) स्वरूप नगर
कानपुर-208002,

- (4) क्षेत्रीय विक्रम कार्यालय,
कोल इंडिया लि.,
नवदीप बिल्डिंग (दूसरा तल), आश्रम रोड,
अहमदाबाद-380014

[फा. सं. ई-11016/10/89-हिन्दी]

विजय शंकर दुबे, संयुक्त सचिव

New Delhi, the 19th October, 1989

S.O. 2796.—The Central Government hereby notifies the following offices, under the Administrative control of the Ministry of Energy (Department of Coal) the 80% staff whereof have acquired working knowledge of Hindi, under sub-rule (4) of rule 10 of the Official Language (Use for Official Purposes of the Union) Rules, 1976 :—

- (1) Regional Sales Office, Coal India Limited, 32, Shamla Road, Civil Lines, Bhopal-462002
- (2) Regional Sales Office, Coal India Limited, K-11 (B), Ashok Marg, C-Scheme, Jaipur-302001
- (3) Branch Office, Coal India Limited, 113/131 (A) Swaroop Nagar, Kanpur-208002
- (4) Regional Sales Office, Coal India Limited, Navdeep Building (2nd Floor), Ashram Road, Ahmedabad-380014.

[F. No. 11016/10/89-Hindi]

V. S. DUBEY, Jt. Secy.

खाद्य एवं नागरिक पूर्ति मंत्रालय

(नागरिक पूर्ति विभाग)


भारतीय मानक ब्यूरो

नई दिल्ली, 27 सितम्बर, 1989

का.आ. 2797.—भारतीय मानक ब्यूरो नियम 1987 के नियम 9 के उपनियम (1) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिस मानक पर मुहर का डिजाइन उसके शब्दिक विवरण और संयुक्त भारतीय मानक की संख्या वर्ष सहित नीचे अनुसूची में दी गई है वह निर्धारित कर दिया गया है।

भारतीय मानक ब्यूरो अधिनियम 1986 और उसके अधीन बने नियमों तथा विनियमों के प्रयोजन के लिए यह मानक मुहर 1988-05-16 से लागू होगी :

अनुसूची

क्र.सं.	मानक मुहर का डिजाइन	उत्पाद/उत्पाद श्रेणी	सम्बद्ध भारतीय मानक की संख्या और वर्ष	मानक मुहर के डिजाइन का शाब्दिक विवरण
(1)	(2)	(3)	(4)	(5)
		पतली दीवार के नम्य द्रत युग्मन पाइप	1172986	स्तम्भ (2) में दिखाई गई निश्चित शैली और परस्पर संबद्ध अनुपात में बनाया गया "II" अक्षरयुक्त भारतीय मानक ब्यूरो का मोनोग्राम जिसमें भारतीय मानक की संख्या डिजाइन में दिखाए अनुसार मोनोग्राम के उपर तथा सम्बद्ध टाइप "ए" तथा "बी" मोनोग्राम के नीचे अंकित हो।

[संख्या सीएमडी/13 : 9]

एस. सुब्राह्मनियन, उप. महानिदेशक

MINISTRY OF FOOD AND CIVIL SUPPLIES

(Department of Civil Supplies)

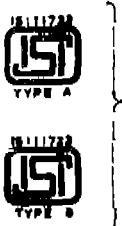
BUREAU OF INDIAN STANDARDS

New Delhi, the 27th September, 1989

S.O. 2797.—In pursuance of sub-rule (1) of the rule 9 of Bureau of Indian Standards Rules, 1987 the Bureau of Indian Standards, hereby, notifies that the Standard Mark(s), design(s) of which together with the description of the design(s) and the number and year of the relevant Indian Standard is/given in the Schedule hereto annexed, have been specified.

These Standard Mark(s) for the purpose of the Bureau of Indian Standards Act, 1986 and the Rules and Regulations framed there under, shall come into force with effect from 1988-05-16 ;

SCHEDULE

Sl. No.	Design of the Standard Mark	Product/Class of Product	No. and year of the Relevant Indian Standard	Description of the design of the Standard Mark
(1)	(2)	(3)	(4)	(5)
		Thin walled flexible quick coupling pipes	IS : 11722-1986	The monograms of the Bureau of Indian Standards, consisting of letters 'ISI', drawn in the exact style and relative proportions as indicated in Col. (2); the number of the Indian Standards being super-scribed on the top sides and the relevant Type 'A' and 'B' being subscribed under the bottom sides of the monograms as indicated in the designs.

[No. CMD/13 : 9]

S. SUBRAHMANYAN, Dy. Director General.

वस्त्र मंत्रालय

MINISTRY OF TEXTILES

नई दिल्ली, 3 अक्टूबर 1989

New Delhi, the 3rd October, 1989

का.आ० 2798.—केन्द्रीय सरकार, केन्द्रीय रेशम बोर्ड अधिनियम, 1948 (1948 का 61) की धारा 4 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत सरकार के वस्त्र मंत्रालय की अधिसूचना सं. का. आ. 747 (ई) दिनांक 9 अगस्त, 1988 में निम्नलिखित संशोधन करती है।

S.O. 2798.—In exercise of the powers conferred by sub-section (3) of Section 4 of the Central Silk Board Act, 1948 (61 of 1948), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Textiles No. SO 747(E) dated 9th August, 1988 :

In the said notification, for serial no. 9 and the entry relating thereto, the following shall be substituted namely, "Director of Sericulture, Govt. of Tamil Nadu."

उक्त अधिसूचना में क्रम सं. 9 और उससे सम्बंधित प्रविष्टि के स्थान पर निम्नलिखित को रखा जाएगा, अर्थात्:—

9. "निदेशक रेशम उत्पादन अ
तमिलनाडु सरकार।"

अधिनियम की धारा 4(3)
(ई) के अधीन तमिलनाडु
सरकार द्वारा नामित।

Nominated by the Govt. of Tamil Nadu under Section 4(3)(e) of the Act.

[फा. सं. 25012/8/88-रेशम (खण्ड)]

[F. No. 25012/8/88-Silk (Pt)]

हृषिकेश पंडा, उप सचिव

HRUSIKESH PANDA, Dy. Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय

नई दिल्ली, 17 अक्टूबर, 1989

का.आ. 2799.—भारतीय चिकित्सा केन्द्रीय परिषद् अधिनियम 1970 (1970 का 48) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के खंड (ख) के अनुसरण में कतिपय विश्वविद्यालयों से आयुर्वेद चिकित्सा पद्धति के चार सदस्य इन विश्वविद्यालयों के आयुर्वेद चिकित्सा पद्धति के संकाय या विभाग (चाहे इन्हें किसी भी नाम से पुकारा जाए) के सदस्यों द्वारा अपने में से निर्वाचित किए गए हैं ;

अतः अब केन्द्रीय सरकार उक्त अधिनियम की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत सरकार के स्वास्थ्य और परिवार कल्याण मंत्रालय की अधिसूचना सं. का.आ० 8269 तारीख 21 अगस्त 1971 का निम्नलिखित और संशोधन करती है अर्थात्:—

उक्त अधिसूचना की सारणी में, "धारा 3 की उपधारा (1) के खंड (ख) के अधीन निर्वाचित" शीर्षक के नीचे (1) रानी दुर्गावती विश्वविद्यालय, जबलपुर (2) केरल विश्वविद्यालय केरल (3) विक्रम विश्वविद्यालय, उज्जैन (4) पुणे विश्वविद्यालय पुणे से संबंधित प्रविष्टियों के सामने क्रमशः निम्नलिखित प्रविष्टियां रखी जाएंगी अर्थात्:—

1	2	3	4
रानी दुर्गावती विश्वविद्यालय, जबलपुर।	1. डा. ए. के. कुलानी, प्रधानाचार्य, राजकीय आयुर्वेद कालेज, जबलपुर	आयुर्वेद	30-6-88
केरल विश्वविद्यालय केरल	1. डा. के. पी. श्री कुमारी अम्मा प्रधानाचार्य राजकीय आयुर्वेद कालेज त्रिपुनितुरा	आयुर्वेद	31-1-89
विक्रम विश्वविद्यालय, उज्जैन	1. डा. जी. एल. शर्मा, प्रधानाचार्य, राजकीय धन्वन्तरी आयुर्वेद कालेज उज्जैन	आयुर्वेद	19-1-89
पुणे विश्वविद्यालय, पुणे	1. वैद्य वारे राधाकृष्ण श्रीधर आयुर्वेद महाविद्यालय, पंचवटी, नासिक-3	आयुर्वेद	27-3-89

[सं. पी. 26013/1/88-ए. ई. (भाग-2)]

आर. एस. माथुर, प्रवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE

New Delhi, the 17th October, 1989

S.O. 2799—Whereas in pursuance of clause (b) of sub-section (1) of section 3 of the Indian Medicine Central Council Act, 1970 (48 of 1970), (hereinafter referred to as the said Act), four members from the Ayurveda system of medicine from certain Universities have been elected from amongst themselves by the member of the Faculty or Department (by whatever name called) of the Ayurveda systems of medicine in these Universities;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 3 of the said Act, the Central Government makes the following further amendment in the notification of the Government of India in the Ministry of Health and Family Welfare No. S.O. 3259, dated the 21st August, 1971, namely :—

In the said notification, in the table, under the heading "Elected under clause (b) of sub-section (1) of section 3" against the entries relating to (1) Rani Durgavati University, Jabalpur (2) Kerala University, Kerala (3) Vikram University, Ujjain, and (4) Poona University, Poona, the following entries shall respectively be substituted, namely :—

1	2	3	4
Rani Durgavati University, Jabalpur	1. Dr. A.K. Dulani, Principal, Govt. Ayurveda College, Jabalpur.	Ayurveda	30-6-88
Kerala University, Kerala	1. Dr. K.P. Sreecumari Amma, Principal, Govt. Ayurveda College, Tripunithura.	Ayurveda	31-1-89
Vikram University, Ujjain	1. Dr. G. L. Sharma Principal, Govt. Dhanvantari Ayurved College, Ujjain.	Ayurveda	19-1-89
Poona University, Poona	1. Vd. Waray Radhakrishnan Shridhar Ayurved Mahavidyalaya, Panchavati, Nasik-3.	Ayurveda	27-3-89

[No. V. 26013/1/88-AE(Pt.II)]

R.S. MATHUR, Under Secy.

(स्वास्थ्य विभाग)

नई दिल्ली, 24 अक्टूबर, 1989

क्र. घा. 2800.—यतः वस्तु चिकित्सा अधिनियम, 1948 (1948 का 16) की धारा 3 के खण्ड (ब) के अनुसरण में केन्द्रीय सरकार ने निम्नलिखित व्यक्तियों को उनके नाम के सामने दी गई तारीख से भारतीय वस्तु चिकित्सा परिषद् का सदस्य नामनिर्दिष्ट किया है, अर्थात् :—

- डा. फाली एस. मेहता,
एल. डी. एस.-सी,
डी. एम. डी. (यू.एस.ए.)
सी साईड, 147,
मिडिल कोलाबा, नूमेन
प्रेजुएटस यूनिवर्स रोड,
बम्बई-400005
16-10-1989
- डा. प्रार. के. बाली, बी. डी. एस.,
ई-13, ईस्ट ऑफ कैलाश,
नई दिल्ली-110065
16-10-1989
- डा. अनिल के. कोहली, एम. डी. एस.,
ई-601, ग्रेटर कैलाश भाग-2,
नई दिल्ली-110048
16-10-1989

4. डा. एच. आर. प्रेम सचदेव,
लाला गेला राम मैमोरियल दन्त
अस्पताल 58/2, अशोक नगर,
नई दिल्ली-110018. 16-10-1989

5. डा. जी. आर. भट्ट,
17, पुरासवालकम हाई रोड,
मद्रास-600007. 16-10-1989

अतः अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 6 की उप-धारा (1) के साथ पठित धारा 3 के खण्ड (च) के अनु-सरण में भारत सरकार के स्वास्थ्य और परिवार कल्याण मंत्रालय की अधिसूचना संख्या का.आ. 430 तारीख 24 जनवरी, 1984 का निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त अधिसूचना में, "धारा 3 के खण्ड (च) के अन्तर्गत नामांकित" शीर्षक के नीचे क्रम संख्यांक 2 से 6 और उससे संबंधित प्रविष्टियों के स्थान पर निम्नलिखित रखा जायेगा, अर्थात् :—

1	2	3	4	5
	"2. डा. आर. के. बाली, बी.डी.एस., ई-18, ईस्ट ऑफ कैलाश, नई दिल्ली-110065.	नामांकित	केन्द्रीय सरकार	16-10-1989
	3. डा. अनिल के. कोहली, एम.डी.एस., ई-601, ग्रेटर कैलाश भाग 2, नई दिल्ली 110048.	नामांकित	केन्द्रीय सरकार	16-10-1989
	4. डा. फाली एस. मेहता, एल.डी.एस.-सी डी.एम.डी. (यू. एस.ए.) सा साईड, 142, मिडिल कोलाबा वूमैन ग्रेजुएट्स यूनियन रोड, बम्बई-400005.	नामांकित	केन्द्रीय सरकार	16-10-1989
	5. डा. एच. आर. प्रेम सचदेव, लाला गेला राम मैमोरियल दन्त अस्पताल, 58/2, अशोक नगर, नई दिल्ली-110018.	नामांकित	केन्द्रीय सरकार	16-10-1989
	6. डा. जी. आर. भट्ट, 17, पुरासवालकम हाई रोड, मद्रास-600007.	नामांकित	केन्द्रीय सरकार	16-10-1989

[सं. वी. 12013/5/88-पी. एम. एस.]

आर. श्रीनिवासन, अवर सचिव

(Department of Health)

New Delhi, the 24th October, 1989

S. O. 2800:—Whereas in pursuance of clause (f) of section 3 of the Dentists Act, 1948 (16 of 1948), the following persons have been nominated by the Central Government to be members of the Dental Council of India with effect from the date shown against each, namely :—

1. Dr. Fali S. Mehta, 16-10-1989
LDSc., DMD (USA)
The Sea Side, 147,
Middle Colaba,
Women Gr. Juates' Union Road,
Bombay-400 005.
2. Dr. R.K. Bali, BDS, 16-10-1989
E-13, East of Kailash
New Delhi-110065
3. Dr. Anil K. Kohli, MDS 16-10-1989
E-601, Greater Kailash-II,
New Delhi-110 048.
4. Dr. H.R. Prem Sachdeva, 16-10-1989
L. Gela Ram Memorial Dental Hospital,
58/2, Ashok Nagar,
New Delhi-110 018.
5. Dr. G.R. Bhat, 16-10-1989
17, Purasawalkam High Road,
Madras-600 007.

Now, therefore, in pursuance of clause (f) of section 3 read with sub-section (1) of section 6 of the said Act, the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Health and Family Welfare (Department of Health), No. S.O. 430, dated the 24th January, 1984, namely :—

In the said notification under the heading "Nominated under clause (f) of section 3", for serial numbers 2 to 6 and

the entries relating thereto, the following shall be substituted, namely :—

1	2	3	4	5
"2.	Dr. R.K. Bali, BDS, E-13, East of Kailash, New Delhi-110 048.	Nominated	Central Government	16-10-1989
3.	Dr. Anil K. Kohli, MDS, E-601, Greater Kailash-II, New Delhi-110 048.	Nominated	Central Government	16-10-1989
4.	Dr. Fali S. Mehta, LDSc., DMD (USA), The Sea Side, 147, Middle Colaba, Women Graduates' Union Road, Bombay-400005	Nominated	Central Government	16-10-1989
5.	Dr. H.R. Prem Sachdeva, Lala Gela Ram Memorial Dental Hospital, 58/2, Ashok Nagar, New Delhi-110 018.	Nominated	Central Government	16-10-1989
6.	Dr. G.R. Bhat, 17, Purasawalkam High Road, Madras-600 007.	Nominated	Central Government	16-10-1989"

[No. V./12013/5/88-PMS]

R. SRINIVASAN, Under Secy.

संस्कृति विभाग

भारतीय पुरातत्व सर्वेक्षण

नई दिल्ली, 16 अक्टूबर, 1989

(पुरातत्व)

क्रा. अा. 2801:—केन्द्रीय सरकार ने, प्राचीन संस्मारक तथा पुरातत्वीय स्थल और अवशेष अधिनियम, 1958 (1958 का 24) की धारा 4 की उपधारा (1) की अपेक्षानुसार भारत सरकार के संस्कृति विभाग (भारतीय पुरातत्व सर्वेक्षण) की अधिसूचना सं. क्रा. अा. 2711 तारीख 10 अगस्त, 1988 द्वारा, जो भारत के राजपत्र भाग 2, खंड 3, उपखंड (ii) तारीख 10 सितम्बर 1988 में प्रकाशित की गई थी, उक्त अधिसूचना की अनुसूची में विनिर्दिष्ट संस्मारक को राष्ट्रीय महत्व का घोषित करने के अपने आशय की सूचना दी थी और उस अधिसूचना की एक प्रति उक्त संस्मारक के समीप एक सहजदृश्य स्थान पर लगा दी गई थी,

और उक्त राजपत्र जनता को 12 सितम्बर, 1988 को उपलब्ध करा दिया गया था;

और केन्द्रीय सरकार को जनता से कोई आक्षेप प्राप्त नहीं हुआ है,

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 4 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इससे उपाबद्ध अनुसूची में विनिर्दिष्ट प्राचीन संस्मारक को राष्ट्रीय महत्व का घोषित करती है।

अनुसूची

राज्य	जिला	परिक्षेत्र	संस्मारक का नाम	संरक्षण के अधीन सम्मिलित किया जाने वाला राजस्व प्लॉट संख्यांक
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1	2	3	4	5
हिमाचल प्रदेश	लाहौल और स्पिती	उदयपुर	मिरकुला देवी मन्दिर	खसरा प्लॉट सं. 56

क्षेत्र	सीमा	स्वामित्व	टिप्पणियां
6	7	8	9
301 बर्गमीटर	उत्तर—खसरा सं. 54 पूर्व—खसरा सं. 54 दक्षिण—सड़क पश्चिम—खसरा सं. 54	ग्राम पंचायत	

[सं. 2/1/81-एम]

जगतपति जोशी, महानिदेशक

DEPARTMENT OF CULTURE

(Archaeological Survey of India)

New Delhi, the 16th October, 1989

(ARCHAEOLOGY)

S.O. 2801.—Whereas by a notification of the Government of India in the Department of Culture (Archaeological Survey of India) No. S. O. 2711, dated 10th August, 1988, published in the Gazette of India, Part II, Section 3, Sub-section (ii), dated 10th September, 1988, the Central Government gave two months' notice of its intention to declare the monument specified in the Schedule to the said notification to be of national importance and a copy of the

notification was affixed in a conspicuous place near the said monument as required by sub-section (1) of section 4 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);

And whereas the said Gazette was made available to the public on 12th September, 1988;

And whereas no objections from the public has been received by the Central Government;

Now, therefore in exercise of the powers conferred by sub-section 3 of section 4 of the said Act, the Central Government hereby declares the ancient monument specified in the Schedule annexed hereto to be of national importance.

SCHEDULE

State	District	Locality	Name of Monument	Revenue plot numbers included under protection	Area	Boundaries	Ownership	Remarks
1	2	3	4	5	6	7	8	9
Himachal Pradesh	Lahul and Spiti	Udaipur	Hirkula Devi temple	Khasra plot number 56	301 square meter	North.— East.— South.— West.—	Khasra No. 54 Khasra No. 54 Road Khasra No. 54	Gram Panchayat

[No. 2/1/81-M]

JAGAT PATI JOSHI, Director,

मानव संसाधन विकास मंत्रालय

(संस्कृति विभाग)

नई दिल्ली, 18 अक्टूबर, 1989

का. आ. 2802—चल चित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 8 के उपनियम (1) और (2) के साथ पठन नियम 7 के उपनियम (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार बम्बई स्थित केन्द्रीय फिल्म प्रमाणन बोर्ड के क्षेत्रीय मलाहकार पैनल के सदस्यों के रूप में निम्नलिखित व्यक्तियों को अगले आदेशों तक तत्काल नियुक्त करती है।

1. श्रीमती उर्मिला तक्तवाला
2. श्रीमती इस्थर डेविड
3. श्रीमती दामिनी मेहता

[मं. 814/33/88-एफ. सी.]

अंशु वैश्य, निदेशक

MINISTRY OF HUMAN RESOURCE DEVELOPMENT

(Department of Culture)

New Delhi, the 18th October, 1989

S.O. 2802.—In exercise of the powers conferred by Sub-Section (1) of Section 5 of the Cinematograph Act, 1952, (37 of 1952) and sub-rule (3) of Rule 7 read with sub-rules (1) and (2) of Rule 8 of the Cinematograph (Certification) Rules 1983, the Central Government hereby appoints the following persons as members of the Regional Advisory Panel of the Central Board of Film Certification at Bombay, with immediate effect, until further orders :—

1. Mrs. Urmila Taktawala
2. Smt. Esther David
3. Smt. Damini Mehta.

[No. 814/3/88 FC]

ANSHU VAISH, Director

जल भूतल परिवहन मंत्रालय

(परिवहन पक्ष)

नई दिल्ली, 18 अक्टूबर, 1989

का. आ. 2803—यतः बी. के. दुबाश ने, जिन्हें गोदी कामगारों और शिपिंग कम्पनियों के नियोक्तताओं का प्रतिनिधित्व करने के लिए भारत सरकार जल भूतल परिवहन मंत्रालय परिवहन पक्ष की अधिसूचना संख्या का. आ. 842 (अ) दिनांक 25 सितम्बर, 1987 द्वारा बम्बई गोदी श्रमिक मंडल के एक सदस्य के रूप में नियुक्त किया गया, अपने दिनांक 13 सितम्बर, 1989 के पत्र में उक्त मंडल की सदस्यता से त्यागपत्र दे दिया है,

अतः अब गोदी कामगार (रोजगार का विनियम) नियम 1962 के नियम 4 के अनुसरण में, केन्द्रीय सरकार एनडिआर उक्त शक्ति को सूचित करती है।

[फा. मं. एल. बी.-11013/1/89-यू एम (एल)]

सुदेश कुमार, अवर सचिव

MINISTRY OF SURFACE TRANSPORT

(Transport Wing)

New Delhi, the 18th October, 1989

S.O. 2803.—Whereas Shri B. K. Dubash, appointed as a member of the Bombay Dock Labour Board representing the employers of Dock Workers and Shipping Companies by the Notification of the Government of India, Ministry of Surface Transport, (Transport Wing), No. S.O. 842(E), dated the 25th September, 1987, has resigned from the membership of the said Board in his letter dated the 13th September, 1989 ;

Now, therefore, in pursuance of rule 4 of the Dock Workers (Regulation of Employment) Rules, 1952, the Central Government hereby notifies the said vacancy.

[F. No. LB-11013/1/89-US(L)]

SUDESH KUMAR, Under Secy.

श्रम मंत्रालय

नई दिल्ली, 6 सितम्बर, 1989

का. आ. 2804—उत्प्रवास अधिनियम, 1983 (1983 का 31) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, श्रम मंत्रालय के अवर सचिव, श्री जे. पी. शुक्ला को 29-8-1989 से अगला आदेश जारी होने तक के लिए उत्प्रवासी संरक्षी, कार्यालय, दिल्ली में उत्प्रवासी संरक्षी, दिल्ली के रूप में नियुक्त करती है।

[संख्या ए-22012/1/89-उत्प्रवास]

MINISTRY OF LABOUR

New Delhi, the 6th September, 1989

S.O. 2804.—In exercise of the powers conferred by Section 3, Sub-Section (1) of the Emigration Act, 1983 (31 of 1983), the Central Government hereby appoints Shri J. P. Shukla, Under Secretary, Ministry of Labour as Protector of Emigrants, Delhi in the office of the Protector of Emigrants, Delhi with effect from 29-8-1989 till further orders.

[No. A-22012/1/89-Emig.]

नई दिल्ली, 16 अक्टूबर, 1989

का. आ. 2805—उत्प्रवास अधिनियम 1983 (1983 का 31) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार श्री ब्रिज भूषण अनुभाष अधिकारी को दिनांक 16 अक्टूबर 1989 से अगला आदेश जारी होने तक उत्प्रवासी संरक्षी-II बम्बई के रूप में नियुक्त करती है।

[सं. ए-22012/1/89-उत्प्र.]

New Delhi, the 16th October, 1989

S.O. 2805.—In exercise of the powers conferred by Section 3, Sub-Section (1) of the Emigration Act, 1983 (31 of 1983), the Central Government hereby appoints Shri Brij Bhushan, Section Officer as Protector of Emigrants, Bombay-II with effect from 16th October 1989, till further orders.

[No. A-22012/1/89-Emig.]

नई दिल्ली, 23 अक्टूबर, 1989

New Delhi, the 5th October, 1989

का. आ. 2806.—उत्प्रशात अधिनियम, 1983 (1983 का 31) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार श्री जी० एस० नागी अनुभाग अधिकारी को दिनांक 25 अक्टूबर, 1989 से अपना आदेश जारी होने तक उत्प्रशात संरक्षक-II, बम्बई के रूप में नियुक्त करती है।

[सं० ए-22012/1/89-उत्प्र०]

प्रदीप सिंह, अवर सचिव

New Delhi, the 23rd October, 1989

S.O. 2806.—In exercise of the powers conferred by Section 3, Sub-section (1) of the Emigration Act, 1983 (31 of 1983) the Central Government hereby appoints Shri G. S. Nagi, Section Officer as Protector of Emigrants, Bombay-II with effect from 25th October, 1989, till further orders.

[No. A-22012/1/89-Emig.]

PRADEEP SINGH, Under Secy.

नई दिल्ली, 5 अक्टूबर, 1989

का० आ० 2807.—म० प्रदेश राज्य सरकार ने कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 4 के खण्ड (घ) के अनुसरण में श्रीमती किरण विजय सिंह के स्थान पर श्री एस० एन० राव, प्रमुख सचिव, श्रम विभाग, मध्य प्रदेश सरकार को कर्मचारी राज्य बीमा निगम में उस राज्य का प्रतिनिधित्व करने के लिए नाम-निर्दिष्ट किया है।

अतः अब केन्द्रीय कर्मचारी, राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 4 के अनुसरण में, भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का० आ० 545(अ), दिनांक 25 जुलाई, 1985 में निम्नलिखित संशोधन करती है, अर्थात्:—

उक्त अधिसूचना में “(राज्य सरकार द्वारा धारा 4 के खण्ड (घ) के अधीन नामनिर्दिष्ट)” शीर्षक के नीचे मद 17 के सामने की प्रविष्टि के स्थान पर निम्नलिखित प्रविष्टि रखी जाएगी अर्थात्:—

श्री एस० एन० राव
प्रमुख सचिव, मध्य प्रदेश सरकार
श्रम विभाग
भोपाल

[संख्या यू-16012/15/88-एस० एम०-I]

ए० के० भट्टराई, अवर सचिव

S.O. 2807.—Whereas the State Government of Madhya Pradesh has, in pursuance of clause (d) of section 4 of the Employees' State Insurance Act, 1948 (34 of 1948) nominated Shri S. N. Rao, Principal Secretary, Labour Department, Government of Madhya Pradesh to represent that State on the Employees' State Insurance Corporation, in place of Shrimati Kiran Vijay Singh;

Now, therefore, in pursuance of section 4 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Labour S.O. No. 545 (E), dated the 25th July, 1985, namely:—

In the said notification, under the heading “(Nominated by the State Government under clause (d) of section 4)”, for the entry against Serial Number 17, the following entry shall be substituted, namely:—

Shri S. N. Rao,

Principal Secretary to the Government of Madhya Pradesh, Labour Department, BHOPAL.

[No. U-16012/15/88-SS.I]

A. K. BHATTARAI, Under Secy.

नई दिल्ली, 5 अक्टूबर, 1989

का० आ० 2808.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै० सिन्वेस्टर एण्ड कम्पनी, बम्बई के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं० 2, बम्बई के पंचपट का प्राप्ति करती है, जो केन्द्रीय सरकार को 26-9-89 को प्राप्त हुआ था।

New Delhi, the 5th October, 1989

S.O. 2808.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Sylvester & Co., Bombay and their workmen, which was received by the Central Government on 26-9-89.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

PRESENT :

Shri P. D. Apshankar, Presiding Officer

Reference No. CGIT-2/55 of 1987

Employer in relation to the management of M/s. Sylvester & Co., Bombay.

AND

Their workmen

APPEARANCES :

For the Employer—Shri P. R. Namjoshi, Advocate.

For the workmen—Shri S. R. Wagh, Advocate.

INDUSTRY : Ports & Docks

STATE : Maharashtra

Bombay, dated the 1st September, 1989

AWARD PART I

The Central Government by their Order No. L-31012/7/87-D.IV(A) dated 15-10-1987 have referred the following industrial dispute for adjudication to this Tribunal under Section 10(1)(d) of the Industrial Disputes Act:—

“Whether the action of the management of M/s. Sylvester & Co., a Custom House Clearing & Forwarding Agents, operating in the major port of Bombay, in relation to its Dock Department in terminating the services of Shri R. G. Gaikwad, Docks Clerk with effect from 1-7-1986, is justified? If not, to what relief the workman concerned is entitled to?”

2. The case of the workman Shri R. G. Gaikwad, as disclosed from the Statement of Claim filed by the Secretary, Transport and Dock Workers' Union, Bombay (Ex. 2), in short, is thus :—

The workman Shri R. G. Gaikwad was in the employment of M/s. Sylvester & Co., Bombay from October 1978 to 30th June 1986. The services of the workman were abruptly terminated by the Company by the letter dated 27-6-1986. In that letter the company had made several charges including those of misbehavior, negligence, cheating, disobeying office instructions, defrauding etc. against the workman by the company and they were alleged to have been committed from the year 1978 to 1986. The workman gave specific replies to the specific charges made by the company from time to time, and refuted all the charges made against him. However, the company, without holding any domestic enquiry against him or without giving any opportunity to defend himself, terminated his services with effect from 1-7-86. Thereafter he approached the Union. The Union requested the company to reinstate the workman in service. However, the company refused to do so. Thereafter the Union raised an industrial dispute before the Assistant Labour Commissioner (C), Bombay. However, the conciliation proceedings failed. Hence the Central Government made reference, as above.

3. The Union further alleged thus :—

The termination of the services of the workman is illegal, improper, unjustified and against the principles of natural justice. No domestic enquiry of any nature was held against him, and he was not given adequate opportunity to defend himself. The Union therefore prayed that the workman be directed to be reinstated in service with full back wages and continuity of services with effect from 1-7-1986.

4. M/s. Sylvester & Co. Bombay by their written statement (Ex. 3) resisted the claim of the Union and in substance contended thus:—

The said workman was indulging in anti-employer activities and was conducting himself in such a manner as would cause loss, fraud, cheating and insubordination in the matter and affairs of the company. He was given sufficient opportunities from time to time to improve himself in his conduct, but he failed to do so. On the contrary, he became more careless and negligent and continued his above said activities, which caused harm to the financial funds and reputation of the company. The termination was not by way of punishment, but it is a discharge simpliciter, and the termination is not illegal, improper and unjustified, or against the principles of natural justice. Instances of mis-behaviour, were enumerated in the reports submitted by the company to its officer, and no useful purpose would have been served by holding

a domestic inquiry against him. The company lastly contended that the Central Government is not the appropriate Government for the purpose of the present reference, and as such, it is liable to be rejected on that ground only. The company further prayed for the rejection of the claim of the Union for the above said reasons.

5. The Issues framed at Ex. 4 are :—

- (1) Whether the termination of the services of the workman Shri R. G. Gaikwad by the management, without holding any domestic inquiry against him, is valid and legal?
- (2) Whether no proper opportunity was given to the said worker to defend himself, before his services were terminated by the management?
- (3) Whether the reference in question falls within the jurisdiction of the present Central Government Industrial Tribunal?
- (4) Whether the termination of the services of the said workman was not by way of punishment by the management?
- (5) Whether the action of the management of M/s. Sylvester & Co., Custom House Clearing & Forwarding Agents, operating in the major port of Bombay in relation to its Dock Department in terminating the services of Shri R. G. Gaikwad, Dock Clerk w.e.f. 1-7-1986, is justified?
- (6) If not, to what relief the said workman is entitled to?
- (7) What Award?

6. Issue No. 3 has been tried as a preliminary issue. My finding on Issue No. 3 is in the affirmative for the following reasons.

7. The workman Shri R. G. Gaikwad filed his affidavit in support of his case. In that affidavit he stated that he was employed as a Dock Clerk with M/s. Sylvester & Co., Bombay. At the end of the affidavit he stated that the business activities of the company are carried out in the Port of Bombay and he used to perform duty in the Bombay Port. It may be noted that this statement made by the workman has gone unchallenged in the cross-examination held on behalf of the management. No oral evidence was led on behalf of the management on issue No. 3. The learned Advocates for both the parties filed their arguments in writing in support of their respective contentions. I find that the statement made by the learned Advocate for the management in his written argument (Ex. 7) in fact supports the contention of the Union that the appropriate Government for the purpose of the present reference is the Central Government, and not the Maharashtra State Government, as can be seen from the following statements made in the written argument on behalf of the management.

8. The reference is concerning an employee employed by M/s. Sylvester & Co., who works at the office of the company at Bhagat Singh Road, Custom House, Bombay. The company is carrying out business of importers and exporters, shipping, clearing, forwarding and commission agents at the said address. The office of the company is situated outside the Dock area. The employees, including the workman in question, are supposed to work in the office of the company at Bhagat Singh Road and occasionally they are supposed to go to the docks for completing a particular job. The workman is also required to go into the area of Dock to complete some jobs of 'clearing or forwarding'. It means that the workman at times worked in the area of Docks in a Major Port, i.e. Port of Bombay, he is certainly a Dock worker, and as such the appropriate Government for the present reference is certainly the Central Government, and not the Maharashtra State Government. It is true that the said company is registered under the Bombay Shops and Establishments Act, and is also required to maintain records under the Payment of Wages

Act, but merely because the company is registered under the Bombay Shops and Establishments Act and is required to maintain the register under the Payment of Wages Act, it does not mean that the appropriate Government for the purpose of the present reference is the Maharashtra State Government. For the reasons mentioned above, I find that the Central Government, and not the Maharashtra State Government, is the appropriate Government for the purpose of the present reference.

9. Under Section 2(a)(i) of the Industrial Disputes Act, the 'appropriate Government' means in relating to an industrial dispute concerning a major Port the Central Government. Admittedly, the Port of Bombay is a major port, and as noted above, the nature of work of the workman Shri R. G. Gaikwad a Dock Clerk is concerning the major port. Therefore the appropriate Government concerning the present reference is the Central Government. It is further found that the employees are required to take dock permits to enter into the dock. This also shows that their nature of work is connected with, and is concerning the Dock at the port of Bombay. A dock worker is defined under Section 2(b) of Dock Workers (Regulation of Employment) Act, 1948 as a person employed or to be employed in, or in the vicinity of, any port on work in connection with the loading, unloading, movement or storage of cargoes or work in receipt of discharge of cargoes or leaving port. I find that the nature of duties of the workman in question falls within the definition of the term 'dock worker'. The appropriate Government for the purpose of dock worker is the Central Government.

10. Apart from the said statements supporting the contention of the Union, there are other important circumstances proving that the Central Government and not the Maharashtra State Government is the appropriate Government concerning the activities of the company in question. The Union has produced copies of certain three settlements arrived at between the said company and the Union in question at Exs. 9, 10 and 11. These Memo. of settlements, as can be seen from these settlements, have been arrived at between the management of M/s. Sylvester & Co., i.e. the management in question, and the Transport and Dock Workers' Union, i.e., the Union in question, on 7-11-1986, 22-9-1969 and 4-6-1981. The written statement in the present case has been signed by Shri Claver Fernandes, as a partner of the said company. The said settlements have also been signed by Shri Fernandes, on behalf of the company. Now in case for the purpose of the activities of the said company the appropriate Government was not to be the Central Government, the said settlements would not have been signed in the presence of the Assistant Labour Commissioner (C), Bombay. However, all these three settlements have been signed before the Assistant Labour Commissioner (C), Bombay. Therefore, for the above said reasons I find that the Central Government is the appropriate Government for the purpose of the present reference. As such, the present reference falls within the jurisdiction of this Tribunal. Issue No. 3 is found in the affirmative.

P. D. APSHANKAR, Presiding Officer

[No. L-31012/7/87-D.IV(A)/D.III(B)]

V. K. SHARMA, Desk Officer

नई दिल्ली, 6 अक्टूबर, 1989

का आ 2809 — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार, मैसर्स सेंट्रल कोल फ़िल्ड्स लिमिटेड की स्वांग वासरी के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (मं 2) धनवाद के पंचाट को प्रकाशित करती है जो केन्द्रीय सरकार को प्राप्त हुआ था।

New Delhi, the 6th October, 1989

S.O. 2809.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Sawang Washery of M/s. Central Coal Fields Ltd. and their workmen, which was received by the Central Government.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri I. N. Sinha, Presiding Officer.

Reference No. 330 of 1986

In the matter of an industrial dispute under Section 10(1)(d) of the I. D. Act, 1947

PARTIES :

Employers in relation to the management of Sawang Washery of M/s. Central Coal Fields Ltd. and their workmen.

APPEARANCES :

On behalf of the workmen : Shri B. B. Prasad, Advocate.

On behalf of the employers : Shri R. S. Murthy, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 26th December, 1988

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/235/79-D.III(A), dated, the 22nd September, 1986.

SCHEDULE

"Whether the action of the Management of Sawang Coal Washery of M/s. C. C. Ltd. in superannuating Shri Aminuddin, Works Supervisor from 20th September, 1976 is justified? If not, to what relief the workman concerned is entitled?"

The case of the workmen is that he was working as Work Supervisor in Swang Coal Washery of M/s. C. C. Ltd. His date of birth as per the service record was 26-7-29. He was asked to appear along with others by Order dated 16-7-66 before the Medical Board where he appeared and his age was determined as 37 years on 26-7-66. The other persons who were sent to the Medical Board along with him were also examined and their ages were determined. They were all given the benefit of the determination of age by the said Medical Board. One Shri B. C. Moitra who had been retired in 1966 had disputed about his date of birth and after his examination by the Medical Board it was found that in 1966 he had not attained the age of 60 years and he continued in service till 1971. On 28-3-73 the concerned workman received a letter intimating that he will attend the age of 57 years on 20-9-73. He filed a representation before the management on 27-8-73 disputing the fact that he was not 57 years on 20-9-73. The said representation of the concerned workman was not considered and he was intimated on 5-7-74 that he would be retired on 20-9-74 on attaining the age of 58 years. He again received another letter dated 18-9-74 intimating him that the age of superannuation of the employees was increased to 60 years. Thereafter he was superannuated with effect from 20-9-76. The concerned workman was illegally and without authority in service till 26-7-89. The concerned workman is a victim of discrimination and unfair labour practice. The date of birth of the concerned workman as

alleged by the management found by the Medical Board as 9-5-61 was not correct. The concerned workman was pursuing his claim to the different forums for getting relief under wrong and improper advice. The decision of the Title Suit filed by him in Giridih Court and the case before the Labour Court cannot operate as resjudicata and the concerned workman cannot be estopped from getting the relief in the present reference. The age of the concerned workman determined by the Medical Officer on 25-7-66 was final and there was no further medical examination of the concerned workman regarding the determination of his age/date of birth. The age/date of birth of the concerned workman determined by the Medical Officer on 26-7-66 is binding on the management and they cannot take the plea that the age of the concerned workman was earlier determined. The concerned workman was deprived of his livelihood by his premature superannuation. On the above facts it is prayed that it may be held that the action of the management superannuating the concerned workman with effect from 20-9-76 is not justified and he is entitled to be reinstated with full back wages and other benefits.

The case of the management is that CCL was previously known as NCDC Ltd. The name of the company was changed with effect from 1-11-75 following the reorganisation of the Coal Industries in the public sector as a result of the nationalisation of the Coal Mine and establishment of Coal India Ltd. as holding company. The CCL is one of the subsidiary company of the Coal India Ltd. The concerned workman was initially employed on 19-8-43 in Bokaro Colliery as a daily rated worker in the capacity of Pump-Man. He was subsequently transferred to Kargali Colliery from 28-5-58 as daily rated worker in the capacity of Pump-Man. He was subsequently Tyndal he was reappointed as a Works Mistry on fixed pay of Rs. 75 per month with effect from 11-5-60. The post of work Mistry fell in the category of work charged establishment of NCDC Ltd. which was the concern of the Civil Engineering Works. The concerned workman was subsequently transferred to Swang Washery with effect from 31-8-68 in the same capacity of work charged work supervisor. When Swang Colliery was being run by the Central Government/Railway department there was a system of medical examination of the workmen for determination of their physical fitness. At that time the medical officer concerned used to assess the age of a workman who had no certificate issued by any educational authorities. In the case of the concerned workman, the medical officer at the time of his initial appointment indicated his age and determined his date of birth as 20-9-14. The concerned workman therefore was appointed at the age of 19 years. The age determined by the Medical Officer at the time of initial appointment used to be entered in the service register of the workmen. According to the said system the date of birth of the concerned workman was originally entered as 20-9-1914 in his service register on the basis of his initial medical examination at the time of his appointment. The concerned workman affixed his LTI on the first page of his service register in token of confirmation of the correctness of the entries made therein including his date of birth. The concerned workman for the first time requested the management in the year 1961 for re-determination of his age. His request was considered and he was examined by Medical Board of the company headed by Dr. D. P. Dhar, the then Chief Medical Officer. The Chief Medical Officer vide his letter dated 10-5-61 addressed to the Executive Engineer (Civil) Kargali colliery reported the finding of the Medical Board held on 9-5-61. According to the opinion of the Medical Board, after examination of the concerned workman, was that the concerned workman was aged about 45 years and as such recommended his date of birth to be altered to 20-9-16. Thereafter an appropriate correction was made regarding the date of birth of the concerned workman from 20-9-14 to 20-9-16.

Previously the age of superannuation of the monthly rated employees of the management as 55 years. This was subject to extension by one year at a time upto 58 years subject to the workman being found physically fit to continue in employment after medical examination by a Medical Officer of the Company. According to the said system the concerned workman was referred to the medical officer of the company and he continued to remain in service till he attained the age of

57 years. He was again referred to the medical officer for medical examination and at that time the concerned workman took the plea that since the management decided 60 years as age of superannuation of all the employees there was no question of medical examination. The matter was reviewed by the management and the concerned workman was allowed to remain in service till he attained the age of 60 years and he was superannuated with effect from 20-9-76.

The Executive Engineer (Civil) Kargali referred the case of all the work charged staff of Bokaro and Kargali colliery to the Medical Officer Incharge vide his letter dated 16-7-76 without taking into account the fact that the concerned workman had already been subject to medical examination. In the examination held by the Medical Officer Bokaro Colliery Hospital on 26-7-66 it was mentioned that the age of the concerned workman by appearance was 37 years whereas the concerned workman had stated his age as 36 years and 3 months before him. The said medical examination had not been conducted for determination of the age of the concerned workman or any other workman sent to him for examination. They were referred only for the purpose of determining their physical fitness for absorption as regular work charged staff. Taking advantage of the said age the concerned workman filed a title suit before the Munsiff, Giridih court claiming that his date of birth should be fixed as per the medical report dated 26-7-66. The said suit was dismissed. Thereafter the concerned workman filed an appeal which was also dismissed. Subsequently the concerned workman filed an application before the Labour Court, Bokaro Steel City claiming the same relief before him. The case was numbered as M.J. Case No. 27 of 1982 by the Labour Court and it was dismissed by him. Thereafter the concerned workman through his union raised an industrial dispute before the ALC(C) Hazaribagh and after failure of the conciliation the Ministry of Labour found the dispute unfit for reference to an Industrial Tribunal. The concerned workman filed a Writ Petition before Ranchi Bench against the decision of the Labour Ministry in which their Lordships directed the Labour Ministry to refer the matter to an Industrial Tribunal for adjudication. Accordingly the present reference was made to this Tribunal. On the above facts it is submitted on behalf of the management that the action taken by them in superannuating the concerned workman with effect from 20-9-76 is fully justified and that he is not entitled to any relief.

The only point to be determined in this case is whether the concerned workman has been correctly superannuated with effect from 20-9-76 after attaining the age of 60 years.

The management examined two witnesses and the concerned workman examined WW-1 Aminuddin who is the concerned workman in this case. The documents of the workmen have been marked Ext. W-1 to W-10 and the documents of the management have been marked Ext. M-1 to M-18.

Admittedly the concerned workman has been superannuated with effect from 20-9-76. The case of the management is that the concerned workman had completed 60 years of age on 20-9-76 and as such he was superannuated. It is admitted by the parties that the age of superannuation of a workman in CCL was 60 years. MW-1 Roudi Sah is working as Senior Clerk in Swang Colliery Washery and is working in the establishment section. He has stated that he knew the concerned workman who was formerly working in Bokaro and Kargali Colliery and in 1968 the concerned workman was transferred to Swang Washery. He has stated that he received the service sheet of the concerned workman from Bokaro Colliery when he was transferred from Bokaro to Swang Washery. The said service sheet is Ext. M-4. He has named the persons who had made entries in the relevant columns of Ext. M-4. He has also stated that the concerned workman had filed a title Suit in the Munsiff Court in which the said Ext. M-4 was filed and it was exhibited in the Title Suit. He has also stated that in CCL the assessment of age is done by the Medical Board and not by a single doctor. He has also stated that the age of retirement in NCDC was 55 years and if an employee was found medically fit he could be retired at the age of 58 years. He has stated that since 1974 the date of retirement was made 60 years and the concerned workman was retired when he completed

60 years of age. He has proved Ext. M-5 which is said to be medical report of fitness of the concerned workman. He has stated that Ext. M-5 is not the assessment of age made by the Medical Board. He has also stated that prior to 1973 the concerned workman had not raised any question regarding his age. MW-2 Shri C. M. Kishore was working in the Personnel department and he had worked in Swang Washery from August 1970 to 1972 as Welfare Officer. He has stated that the maintenance of the service sheet of the workmen was under his charge, when he was working in Swang Colliery. He has stated that he knows the concerned workmen and that in 1972 the concerned workman had approached him to change the date of his birth in the service sheet on the basis of the age determined by the Medical Board. He has stated that he called for service sheet and the medical board report in presence of the concerned workman and he corrected the date of birth of the concerned workman in Service sheet Ext. M-4 from 1914 to 1916. He has pointed out to the writings in the red ink at the top of Ext. M-4 which is in writing and signature. He has stated that he obtained the LTI of the concerned workman on it in his presence. On reference to the evidence of the concerned workman WW-1 Aminuddin it will appear that he came in service in 1943 in Bokaro Colliery as Pump Khalasi and was transferred to Swang Washery in 1969 as Work Supervisor. He has stated that he along with others were sent to the doctor for examination and he appeared before the doctor on 26-7-66 and he was examined by the Doctor. He has stated that the medical report of the doctor dated 26-7-66 is Ext. M-5. He has stated that the management had accepted the age as ascertained by the doctor in Ext. M-5 and Ext. M-11 and that the other persons were superannuated on the basis of the age ascertained therein. He has stated that on the basis of the age determined in Ext. M-5 he should retire on 26-7-89. He has stated that when the management gave him a notice on 20-9-73 that he would be retired after one year he filed a petition protesting his retirement and requested that he should be retired on the basis of the age ascertained by the doctor in Ext. M-5. He has stated that the management gave him a letter that if he obtains a fitness certificate his services may be extended for the period of one year and thereafter he went to the doctor for fitness certificate and his service was extended for one year. He has also stated that thereafter the age of retirement in CCL was fixed as 60 years and that the management retired him in 1976 without considering his age which had been assessed by the doctor in Ext. M-5. He has stated that in the service sheet correction of age was made in accordance with the age declared by the Doctor in Ext. M-5 but on reference to Ext. M-5 and the service sheet Ext. M-4 it will appear that the age of the concerned workman in Ext. M-4 was corrected not on the basis of the age stated in Ext. M-5 but the age was corrected on the report of the medical board dated 9-5-61. In cross-examination he has admitted that medical examination is done by one doctor and that medical board consists of two doctors which is constituted by the management for assessment of age of a workman. He has further stated that when a workman is examined by the Medical Board it is written in the top of the form "Medical examination". He asserts that Ext. M-5 is a report of the Medical Board it is written in the top of the form "Medical" has stated that in 1961 he had prayed for assessment of his age by the Medical Board and he was sent to Ranchi to the Medical Board but was not examined by the Medical Board. Subsequently he has stated that he does not know if in the service sheet his age was corrected in accordance with the assessment of age by the Medical Board in 1961. He admits that he has given his LTI in Ext. M-4. Now having the said oral evidence in the back ground let us examine the relevant document exhibited in this case.

Sheet anchor of the case of the workmen is that the age of the concerned workman was fixed vide Ext. M-5 by a Medical Board and that his age was declared as 37 years on 26-7-66 and on its basis he claims that his age of birth was 26-7-1929 and that he should be superannuated on 26-7-89 when he completes 60 years of his age. According to the management Ext. M-5 was a medical report of fitness of the concerned workman and it did not determine the age of the concerned workman nor it is an assessment of the age of the concerned workman by a medical board. On reference to the

oral evidence of WW-1 himself it will appear that Ext. M-5 is the report of Medical Officer and that it is not a report of a Medical Board as the said report had not been given by two doctors. There is no mention on the top of the report Ext. M-5 that it was "Medical Board examination" as is stated by the concerned workman in his evidence. It is clear that this is a medical report by single doctor and it cannot be said to be a report of a medical board. More important is the fact that the medical report Ext. M-5 mentions the age of the concerned workman as 37 years by appearance. From the conclusion of the report Ext. M-5 it will appear that it was a fitness certificate given by the doctor as he had certified that he considered that the concerned workman is fit to work under NCDC. It will appear that vide Ext. M-7 dated 8-9-73 the Coal Preparation Plant Manager, Swang Washery Project had written a letter to the medical officer in charge NCDC Ltd., Bokaro Colliery in which he had made a query from the medical officer incharge that there was a medical examination report signed by the said Medical Officer Incharge in respect of the concerned workman on 26-7-66 (this medical report refers to Ext. M-5) wherein it was stated that the age by appearance of the concerned workman was 37 years on 26-7-66. He also mentioned in the said letter that the date of birth of the concerned workman originally recorded was 20-9-14 which was revised to 20-9-16. After medical board had examined the concerned workman the Plant Manager requested the medical officer incharge whether the medical examination of the concerned workman was done by any Medical Board or any age committee and the circumstances under which the medical examination was done. He also requested the medical officer to clarify whether in his opinion the recommendation of the medical board should stand valid or not. In response to this letter the medical officer incharge Bokaro vide his letter dated 10-9-73 wrote to the Coal Preparation Plant Manager, Swang Washery Project that as per his letter dated 16-7-66 the true copy of which forms part of Ext. M-6, the medical officer had examined Shri Aminuddin on 26-7-66 and found him medically fit. The medical officer further stated in Ext. M-6 that in the proforma Ext. M-5 Sl. No. 1 to 5 was filled up by the appointing authorities and not by the Medical Officer or his staff and that Sl. No. 6 was recorded by the Medical Officer. Thus it is clear from the letter of the Medical Officer who had given the medical report in Ext. M-5 that he had examined the concerned workman to see whether he was medically fit for his service and that he had not assessed the age of the concerned workman. All these facts were intimated to the concerned workman by the Coal Preparation Plant Manager vide his letter Ext. M-8 dated 14-9-73 to the concerned workman. The concerned workman had therefore been informed of the situation. It is clear therefore that Ext. M-5 was a medical report of a single doctor regarding the fitness of the concerned workman and the said report was not a report by any Medical Board constituted for assessment of age of the concerned workman. It is clear therefore that vide letter attached along with Ext. M-6 the concerned workman along with others had been sent to the Medical Officer for reporting whether the workmen's named in it were medically fit or not. Neither Ext. M-5 nor Ext. M-6 show that the concerned workman was sent to the medical officer for determination of his age. The said medical report Ext. M-5 is a clear report regarding the fact whether the concerned workman was fit or not. The appearance of age of the concerned workman as 37 years stated in Ext. M-5 by the Medical Officer cannot be said to be determination of age of a person by scientific test. The medical officer had just given a layman's estimate of the age of the concerned workman by appearance and there is nothing to show that any scientific test was made for determination of age of the concerned workman in Ext. M-5.

Ext. M-4 is the service sheet which shows that formerly the age of the concerned workman was noted as 20-9-1914 which was subsequently corrected as 20-9-1916 as stated by MW-1 who had made the correction in red ink in his own pen and signature. It is stated that all the pages of the service sheet of the concerned workman have not been filed in this case. It appears no doubt, that the service sheet Ext. M-4 is not complete but the fact remains that this Ext. M-4 was filed in the Title Suit before the Munsiff Court, Giridih and

was marked as Ext. B on the first page which contains the entry of age of the concerned workman. For our purpose the relevant page of the servicesheet of the concerned workman is Page No. 1 which is in fact in Ext. M-4 and our purpose is served on the basis of first page of Ext. M-4 and the other pages of the servicesheet of the concerned workman are not of importance so far the entry of age of the concerned workman in the service sheet is concerned. Ext. M-4 dated 10-7-74 was not the subject of notice of retirement the concerned workman to the Coal Preparation Plant Manager Swang Washery Project by the concerned workman. Vide this letter the concerned workman stated in para-2 that the Chairman vide letter dated 24-4-74 was pleased to enhance the age of retirement of all the employees from 58 to 60 years and that as per this letter he should be retired on 20-9-74 when he had completed the age of 58 years only. He requested in this letter to issue necessary order so that he may not face any difficulty from 20-9-74. It appears therefore that by this letter the concerned workman had admitted fact that he was completing his age of 58 years on 20-9-74 and as such he had requested that his age of superannuation has been fixed at 60 years and he should not be retired on 20-9-74 meaning thereby that he should be retired on completing 60 years of age which will be 20-9-76. The management has superannuated the concerned workman with effect from 20-9-76 and it appears that the concerned workman had completed the age of 60 years in accordance with the age of the concerned workman entered in Ext. M-4.

The concerned workman WW-1 in his cross-examination has stated that in 1961 he had prayed for assessment of age by the Medical Board and was sent at Ranchi to the Medical Board. He no doubt states that he was not examined by the Medical Board but in view of the entry in the service sheet Ext. M-4 it appears that he was examined by the Medical Board on 9-5-61 and his age was determined by the Medical Board which finds entered in the service sheet. His attention was drawn to his evidence in Title Suit No. 8 of 1976 before the Munsiff Giridih. He has denied that he had stated in the Title Suit that he was examined by the Medical Board. The management has filed the certified copy of the deposition of the concerned workman Aminuddin and it is marked Ext. M-18. On perusal of his deposition at bottom of page-6 and top of page-7 of Ext. M-18 it will appear that he has admitted that he was examined by a Medical Board of 2 doctors and that the said Board was constituted for the determination of his age. It is clear, therefore that the concerned workman is now trying to suppress the truth by stating that he was not examined by the Medical Board although in fact he was examined by a medical board consisting of 2 doctors for the determination of his age. It is clear therefore that the concerned workman had been examined by Medical Board for the determination of his age on 9-5-61 in which his date of birth was determined as 20-9-1916.

According to the admitted case of the parties the concerned workman was appointed on 19-8-43. It will appear from Ext. M-4 that at the time of appointment his date of birth was recorded as 20-9-1914 which was subsequently corrected vide Medical Board report as 20-9-1916. The concerned workman has been superannuated at the age of 60 years taking into consideration his date of birth as 20-9-1916. If the age of the concerned workman as stated in Ext. M-5 as 37 years by appearance on 26-7-66 is admitted it would appear that his date of birth was 26-7-29. If that be a fact then the concerned workman who had joined the service on 19-8-43 was aged only 14 years at the time of his appointment. The concerned workman could not have been appointed at the age of 14 years as minimum age for appointment is 18 years in the colliery. This also shows that the concerned workman was not born on 26-7-29.

In the result, I hold that the action of the management of Swang Coal Washery of M/s. CCL in superannuating the concerned workman Shri Aminuddin with effect from 20th September, 1976 is justified and consequently the concerned workman is entitled to no relief.

This is my Award.

I. N. SINHA, Presiding Officer

[No. L-20012(235)/79-D.III(A)/D.IV(B)/TR(Coal-D)]

2931 GI/89-3.

नई दिल्ली, 13 अक्टूबर, 1989

का. अ. 2810.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुमरण में केन्द्रीय सरकार मेसर्स भारत कोकिंग कोल लिमिटेड की कुसुण्डा कोलियरी के प्रबन्धतंत्र से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. 2) धनबाद के पंचाद को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

New Delhi, the 13th October, 1989

S.O. 2810.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Kusunda Colliery of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri I. N. Sinha, Presiding Officer.

Reference No. 195 of 1986

In the matter of an Industrial Dispute under Section 10(1)(d) of the I. D. Act 1947

PARTIES :

Employers in relation to the management of Kusunda Colliery of Messrs. Bharat Coking Coal Limited, and their workmen.

APPEARANCES :

On behalf of the workmen : Shri S. N. Goswami, Advocate.

On behalf of the employers : Shri B. Joshi, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 28th September, 1989

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012 (12)/86-D.III(A), dated, the 28th July, 1986.

SCHEDULE

"Whether the demand of Shri Jagdish Bhuiya, son of Shri Dina Bhuiya that on the basis of attendances of work said to have been put in by him during 1974-75 as Wagon Loader, the management of Kusunda Colliery of M/s. Bharat Coking Coal Limited should now absorb him on the rolls of the colliery is justified? If so, to what relief is he entitled?"

The case of the concerned workman Shri Jagdish Bhuiya is that he was working as a wagon loader in Navadih Kusunda Colliery, Area No. VI of M/s. BCCCL since 1973. He was continuously performing his job as Wagon Loader till July, 1976. Thereafter the management suddenly and arbitrarily stopped his work along with his other co-workers without complying with the provision of Section 25F of the I. D. Act.

In the year 1978 the management agreed to regularise about 57 of the wagon loaders whose work had been stopped in July, 1976 except the concerned workman. The concerned workman made several representations before the management regarding his regularisation but the management neglected to settle the grievance of the concerned workman. Thereafter the concerned workman raised the industrial dispute before the ALC(C) on 24-6-85. On failure of the conciliation proceeding started by the ALC(C), Dhanbad the dispute was referred to this Tribunal for adjudication. The demand of reinstatement of the concerned workman on the roll of the colliery is justified on the basis of his attendance. The management had reinstated other workmen in 1978 whose work had been stopped along with the concerned workman in 1976 and as such the concerned workman also deserves to be reinstated in his job. The monthly wage sheets from 1973 to 1976 of Wagon Loaders, quarterly bonus from 1973 to 1976 and Form B Register will show that the concerned workman was regularly working as Wagon loader in the said colliery and there was relationship of employer and employee between him and the management. On the above facts it is prayed that the concerned workman be reinstated as Wagon Loader with the benefits admissible to him under the law.

The case of the management is that there was no person named Jagdish Bhuia, son of Dina Bhuia, under the roll of the colliery during the period 1974 to 1975. As such no name appears either in the Form B Register or identity card register of the colliery. The concerned workman was neither permanent, temporary, probationer or casual worker of the colliery at any time. During the period from 1973 to 1976 the supply of wagons for loading coal was erratic and as such the management was employing permanent and casual wagon loader to meet the situation. On some days when the number of wagons supplied was large in number and it was not possible to load the same by permanent and casual wagon loaders, some persons outside the workers on the roll used to be employed and those workmen outside the rolls were called unlisted casual wagon loaders. With the introduction of the mechanical wagon loading and by ensuring regular supply of wagon in 1976, it became unnecessary to employ unlisted casual wagon loaders and thereafter the system of employing unlisted casual wagon loaders was discontinued.

The management introduced a scheme of making permanent all the casual wagon loaders whether on the roll or outside the roll on the basis of No. of days of attendance of 240 days in a calendar year. Thus many casual wagon loaders who had put 240 days attendance in any calendar year were made permanent. The management introduced another scheme of enrolling "Badli" miner/loader out of these unlisted/delisted casual wagon loaders who had put minimum of 75 days of attendance between 1973 to 1976 and issued a circular dated 4-8-80 in this regard. As per the said circular the enrolment was to be made according to the requirement of the particular mine at that time. The said circular was implemented in 1980 and 1981. The concerned workman never applied to the management for his enrolment as "Badli" Miner/loader in the year 1980 or 1981 and never made any complaint that he was unlisted casual wagon loader and was not enrolled as badli miner/loader. In the year 1984 RCMS union raised an industrial dispute for employment as "Badli" Miner/loader of 162 workmen on the allegation that those workmen were unlisted/delisted casual wagon loader and they had more than 75 days attendance during the period 1973 to 1976 as per circular dated 4-8-80. The said list of 162 workmen contained the name of the concerned workman. The Government authorities examined all the relevant documents and not finding any merit in the contention of the union refused to refer the said dispute by order dated 8-5-84. Thus the industrial dispute on the demand for employ of the concerned workman as badli miner/loader was found not fit for reference as per circular dated 4-8-80 and the present reference on the demand of the individual concerned workman for his employment on the basis of his attendance as per circular dated 4-8-80 cannot be entertained under Section 2A of the I. D. Act. On the above facts it is prayed on behalf of the concerned workman that an Award be passed holding that the concerned workman is not entitled to any relief.

The point to be decided is whether the concerned workman should be absorbed on the rolls of the colliery on the basis of his attendance as Wagon Loader during 1973-74.

The concerned workman examined 5 witnesses and produced documents which have been marked Ext. W-1 to W-2 series. The management neither examined any witness nor exhibited any document.

The claim of the concerned workman is that he had worked continuously from 1973 to July, 1976 as a wagon loader in Kusunda colliery. Para-9 of the W.S. of the management shows that in the year 1984 the RCMS Union had raised an industrial dispute for employment as badli miner/loader to 162 workmen on the allegation that those workmen were unlisted/delisted casual wagon loaders and they had completed 75 days of attendance during the period 1973 to 1976 and that the name of the concerned workman was appearing in the said list of 162 workmen. It will thus appear that the present claim had earlier been made by RCMS union in respect of the concerned workman also. The concerned workman has examined himself as WW-5. He has stated that since 1973 he was working as Wagon loader in Kusunda Colliery and he worked continuously till 1976. His evidence will further show that about 150 to 200 wagon loaders were working along with him in Kusunda colliery and that their attendance used to be marked by Shri Kamta Singh, Attendance Clerk. He has stated that in the month of July or August, 1976 the work of all those wagon loaders were stopped. He has further stated that other wagon loaders whose work had been stopped in 1976 were subsequently taken in employment but the concerned workman was not given employment. He has stated that he had called for the Bonus Register and the Attendance Register from the management which would have shown his attendance as Wagon Loader. The said petition of the concerned workman is on the record and was filed in this case on 13-7-88 and the Advocate representing the management had received a copy of the said petition but the management neither filed document called for from them nor filed any petition giving reason as to why those documents have not been filed in this case. The evidence of WW-5 shows that Shri Kamta Singh, Attendance Clerk was marking their attendance but the management has filed no evidence to falsify the said statement of WW-5. The concerned workman is fully supported by 4 other persons who were working as Wagon loaders along with the concerned workman whose work also had been stopped in 1976 but were again taken back in employment and they are now permanent wagon loaders. WW-1 Subhas Bauri has stated that the concerned workman was working along with him as Wagon loader from 1973 to 1976 and that in July, 1976 they were stopped from work. He has stated that in 1978 he was again taken in employment in Nayadih Kusunda colliery but the concerned workman was not given work by the management. He has also stated that their attendance was marked in the siding when they were working in the colliery as Wagon Loaders and that their wages were paid at the company's counter. In cross-examination he has stated that he was made permanent in 1979. In further cross-examination he has stated that those casuals who had put in 240 days or more attendance were made permanent. He has also stated that listed casuals and unlisted casuals prior to 1974 and that the unlisted casual wagon loaders were stopped work and were not kept in the service. In his further cross-examination he has stated that in 1976 listed and unlisted casuals were all stopped work and that about 50 persons out of the said stopped workmen were given employment in 1978 who have now become permanent. WW-2 has stated the facts as stated by WW-1. In his cross-examination WW-2 has stated that he and the concerned workmen were casual wagon loaders prior to the stoppage of their work. He has stated that the concerned workman was not issued with any identity card. He has stated that the concerned workman was named in dispute which was raised before the Conciliation Officer by the union. The evidence of WW-3 Krishna Ram and WW-4 Rampati Chouhan are also almost the same as stated by WW-1 and WW-2 and there is nothing in their cross-examination to discredit the facts stated by them. The concerned workman WW-5 has himself admitted in his cross-examination that he was working as unlisted casual wagon loader and as such his name was not mentioned in the Form

B Register. Although he does not possess any account of his attendance in the colliery, it was for the management to produce the attendance register and the wage sheets by which wages were paid to the workmen to show the attendance or the non-existence of the name of the concerned workman in the Attendance Register. The concerned workman has filed Ext. W-1 said to contain the signature of Shri Mitra, Welfare Officer of Kusunda colliery. Although it has been described by WW-5 as Bonus slip received by him from the management but it does not appear to be a bonus slip. It appears that Ext. W-1 was for the period from 1-10-74 to 30-6-75 and on its basis it has been submitted that the concerned workman was working in Kusunda colliery. Besides that the workman has filed Ext. W-2 dated 18-2-85, W-2/1 dated 29-3-85 and Ext. W-2/2 dated 18-5-85 which are petitions filed by the concerned workman to the Mines Supdt., Kusunda Colliery and Ext. W-2/2 to the Labour Commissioner (Central) Dhanbad in which all the facts have been stated by the concerned workman demanding his employment as wagon loader. On the consideration of the evidence of the witnesses examined on behalf of the concerned workman and the documents and non-production of the Attendance Register and Wage sheets called for by the workmen from the management and not filed by them, it will appear that the concerned workman was working as a delisted casual wagon loader in Kusunda Colliery during 1973 to July, 1976 and during the said period he had completed attendance of more than 75 days and as such he deserves to be enrolled as Badli miner/loader in accordance with the circular of the management dated 4-8-80.

It is submitted on behalf of the management that the concerned workman has not been able to establish attendance of 75 days so that he could avail of the benefits of the circular dated 4-8-80. The concerned workman had called for the attendance register and the wagesheets of the Wagon loaders which was in possession of the management but neither they have been filed nor any explanation has been given as to why it has not been filed in this case. The inference therefore will be that the management has withheld those documents as it would have gone against them. The concerned workman along with his witness have shown that the concerned workman was regularly working from 1973 to July, 1976 as Wagon loader and as such it would not be wrong to conclude that the concerned workman had completed attendance of more than 75 days. If it was not so the management could have produced the documents in their possession to show that the assertion being made by the concerned workman was not correct. Except for the submission made on behalf of the management, no evidence has been adduced on behalf of the management to falsify the evidence adduced on behalf of the concerned workman.

In the result, I hold that the demand of the concerned workman Shri Jagdish Bhuia son of Shri Dina Bhuia for enrolling him as badli miner/loader on the basis of his attendance is justified. The management is directed to enrol the concerned workman as badli miner/loader and to provide him with work of wagon loading as and when required and on his completing attendance of 240 days in a calendar year he should be regularised as permanent Wagon Loader of the management.

This is my Award.

I. N. SINHA, Presiding Officer

[No. L-20012(12)/86-D.III(A)/IR(Coal-I)]

नई दिल्ली, 16 अक्टूबर, 1989

का आ 2811.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स भारत कोकिंग कोल लिमिटेड का लोदना क्षेत्र सं 10 के प्रबन्धन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद

में केन्द्रीय सरकार औद्योगिक अधिकरण (सं 1), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

New Delhi, the 16th October, 1989

S.O. 2811.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1, Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Lodna Area No. X; M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 14 of 1988

PARTIES :

Employers in relation to the management of Lodna Area No. X M/s. Bharat Coking Coal Ltd.

AND

Their Workmen

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Employers—Shri B. Joshi, Advocate.

For the Workmen—Shri D. Mukherjee, Secretary Bihar Colliery Kamgar Union.

STATE : Bihar

INDUSTRY : Coal

Dated, the 21st September, 1989

AWARD

By Order No. L-24012(17)/83-D.IV (B), dated, the 2nd August, 1983, the Central Government in the Ministry of Labour, had in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, referred the following dispute to Central Government Industrial Tribunal No. 3, Dhanbad. Subsequently the dispute has been transferred to this Tribunal for adjudication vide Ministry's Order No. S-11025(7)/87-D.IV (B) dated 31st December, 1987/12th January, 1988. The Schedule of the dispute runs as follows :

"Whether the demand of the workmen of Lodna Fire Project, Lodna Area No. X, Messrs Bharat Coking Coal Limited, Post Office Khas Jeengora, District Dhanbad that Shri P. C. Kar, Dozer Operator should be designated in Excavation group B and paid accordingly as per National Coal Wage Agreement with effect from 18-4-1978 is justified? If so, to what relief is the concerned workman entitled?"

2. The case of the concerned workman, as appearing from the written statement submitted by the sponsoring union, Bihar Colliery Kamgar Union, briefly stated, is as follows :

The concerned workman, P. C. Kar, was originally appointed in Coal Board. He was absorbed in service by M/s. B.C.C. Ltd. along with other ex-Coal Board employees. By Office Order bearing No. BCCL/PA-IV(CB)/77/17333-38 (H) dated 10/12th September, 1977 he was absorbed as Dozer Operator (Trainee) in Excavation Group 'D' and the training period was for one year from 1-9-77. After successful completion of training period the management promoted him to Excavation Group 'B' by appointing/regularising him by Office Order bearing No. BCCL/PA-II/5/2172(a)/78/15092-93 dated 18/25-4-1978. The concerned workman prayed before

the management to release him for joining the post he was promoted to, but he was not released by the then Dy. C.M.E. (S&R) Department on the ground that his service as Dozer Operator was essential for operating Dozer in (S&R) Section. The management subsequently transferred him to D&C Division by an Office Order dated 25-3-1980 and he was posted at Lodna Fire Project. Although he was promoted to Excavation Group 'B' the management of Lodna Fire Project started paying him wages as available to workmen in Excavation Group 'D'. Anyway, the management subsequently promoted him to Excavation Group 'C' by an Office order dated 15-7-82. He protested against illegal and arbitrary payment of Excavation Group 'B' wages and subsequently Excavation Group 'C' wages. His case was recommended by Project Officer, Lodna but the management refused to consider his demand. He has been repeatedly demanding wages as available to workmen in Excavation Group 'B' with effect from 18/25-4-78 but without any effect. Seeing the anti-labour policy of the management the union raised an industrial dispute before the Asstt. Labour Commissioner (C) demanding Excavation Group 'B' wages for him with effect from 18/25-4-78. The conciliation proceeding ended in a failure and the appropriate Government has been pleased to refer the above dispute for adjudication by this Tribunal.

3. The case of the management of M/s. B.C.C. Ltd. as appearing from the written statement submitted, details apart, is as follows :

The concerned workman, P. C. Kar, was an employee of Coal Board which was dissolved after the Coal Mines (Conservation and Development) Act, 1974 became effective. He was taken on the roll of M/s. B.C.C. Ltd. with effect from 1-4-1975 in accordance with the terms and conditions of service as per the provisions of the aforesaid Act. He was selected for training as a Dozer Operator for a period of one year as per procedure of the management. He was designated as Dozer Operator (Trainee) on 1-9-77 and was placed for one year with effect from that date in showing and protective works. A Trainee Operator is placed in Excavation Grade 'E'. He was placed in Excavation Grade 'B' with effect from 1-9-78 after completion of one year training as Dozer Operator. He was promoted to Excavation Grade 'C' from Grade 'D' with effect from 23-3-82 in accordance with the scheme of promotion approved for excavation Cadre. In due course of time he will have chance to be promoted to Excavation Grade 'B'. The demand of the union to promote him to Excavation Grade 'B' with effect from 18-4-1978 is illegal and unreasonable and cannot be accepted. His promotion to Excavation Grade 'B' from Grade 'E' superseding the senior workmen of his grade as well as superseding the senior workmen in Grade 'D' and Grade 'C' contrary to the norms of promotion will cause confusion and chaos in the industry. The concerned workman, while working as Dozer Operator (Trainee) applied directly against an open advertisement for recruitment of Dozer Operator in Grade 'B'. The advertisement was not meant for internal candidates. However, he was selected for recruitment in Grade 'B' on probation for one year as a fresh recruit. Whenever any workman is freshly recruited to any post he resigns from his earlier job. He loses seniority and continuity of service and all other benefits of permanent service. He remained on probation for one year and the management reserves its right to terminate his service without assigning any reason. The concerned workman was also given offer of appointment on the terms as aforesaid and was directed to join his duties within seven days from the date of order. It was stipulated that if he could not join his duty within 15 days from the date of receipt of appointment letter his appointment would stand cancelled. He preferred not to join his duty in Grade 'B' Dozer Operator as he was lacking confidence to prove his work. In the circumstances the management has submitted that the demand of the union has no merit and must be rejected.

4. The management has submitted rejoinder to the written statement of the workman. In the rejoinder the management has denied and disputed the claim of the concerned workman for being placed in Excavation Grade 'B' and denied other

allegations made in the written statement of the sponsoring union.

5. In the rejoinder to the written statement the sponsoring union has reiterated the facts as stated in the written statement and submitted that the contention of the management is untrue and unjustified.

6. Admittedly the concerned workman was a former employee of Coal Board and he was absorbed in the services of M/s. B.C.C. Ltd. The case of the management is that he was taken on the roll of M/s. B.C.C. Ltd. with effect from 1-4-75 after dissolution of Coal Board as per Coal Mines (Conservation and Development) Act, 1974. This contention of the management has not been specifically denied by the sponsoring union in its rejoinder.

It is the case of the sponsoring union that the concerned workman was absorbed as Dozer Operator (Trainee) in Excavation Grade 'D' and the training period was for one year with effect from 1-9-77. The case of the management is that he was selected for training as Dozer Operator for a period of one year as per procedure of the management and that he was designated as Dozer Operator (Trainee) on 1-9-77 and was placed under training for one year with effect from that date and that a trainee Operator is placed in Grade 'E'. Thus it is seen that there is no dispute over the fact that the concerned workman was appointed Dozer Operator (Trainee) on 1-9-77 but the union claimed that he was placed in Excavation Grade 'D' while the management has asserted that he was placed in Excavation Grade 'E' as trainee Dozer Operator. But the union has laid no evidence to prove that he was placed in Excavation Grade 'D' as a Dozer Operator (Trainee).

7. The management has asserted that he was promoted to Excavation Grade 'C' from Grade 'D' with effect from 23-3-82 in accordance with the norms of scheme of promotion approved for excavation cadre. The union has not adduced any evidence to counter this position.

8. Anyway, the case of the management is that the concerned workman was one of the candidates selected for recruitment in Grade 'B' on probation for one year in terms of an open advertisement for recruitment of Dozer Operator in Grade 'B'. It is the further case of the management that candidate, if already in service, recruited in response to open advertisement loses seniority and continuity of service and other benefits of permanent service and that the concerned workman did not join his appointment within stipulated time as he was lacking confidence in his capacity. On the other hand, the sponsoring union has contended that the management did not allow him to join his duty. But neither the union nor the concerned workman has laid any evidence to prove the contention.

9. This being the position, I come to the conclusion that neither the concerned workman nor his union has been able to prove by adducing evidence, although ample opportunity was given therefore, that the concerned workman should be designated in Excavation Group 'B' and paid wages as per N.C.W.A. with effect from 18-4-78. Hence, I am constrained to pass the following award in the present reference case :

The demand of the workmen of Lodna Fire Project, Lodna Area No. X of M/s. Bharat Coking Coal Limited, P.O. Khas Jeezagora, Dist. Dhanbad that P. C. Kar, Dozer Operator should be designated in Excavation Group 'B' and paid wages as per N.C.W.A. with effect from 18-4-1978 is not justified.

In the circumstances of the case I award no cost.

S. K. MITRA, Presiding Officer

[No. L-24012(17)/83-D.IV (B)/IR (Coal-I)]

का अ 2812 - औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मैसर्स भारत कोकिंग कोल लिमिटेड का एना कोलियरी के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं 2), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 2812.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Ena Colliery of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri I. N. Sinha, Presiding Officer.

Reference No. 223/86

In the matters of an Industrial Dispute under Section 10(1)(d) of the I. D. Act, 1947

PARTIES :

Employers in relation to the management of Ena Colliery of M/s. BCCL and their workmen.

APPEARANCES :

On behalf of the workmen—Shri S. Bose, Secretary, R.C.M.S.

On behalf of the employers—Shri B. Joshi, Advocate.

STATE : Bihar **INDUSTRY :** Coal

Dhanbad, the 28th September, 1989

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under section 10(1)(d) of the I.D. Act, 1947, has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012 (16)/86-D.III (A), dated, the 3rd July, 1986.

“Whether the demand of Rashtriya Colliery Mazdoor Sangh that the Management of Ena Colliery of M/s. Bharat Coking Coal Ltd. should allow resumption of duties by Shri Sudarshan Bouri, Ex-Casual Wagon Loader, who had worked at the Colliery upto 1976, is justified? If so, to what relief is the workman concerned entitled?”

A settlement has been filed in this case signed by the representatives of the employer and the workmen. It appears from the said settlement that according to the settlement arrived at between the parties, the dispute has already been settled by which the concerned workman Shri Sudarshan Bouri was allowed resumption of his duty as badli/miner/loader instead of casual wagon loader. By now the concerned workman has already been made permanent and there is no subsisting dispute now left between the parties. The parties, therefore have prayed that a “No dispute” Award be passed in this case.

In view of the above the case is disposed off as per settlement between the parties and the settlement will form part of the Award as Annexure.

I. N. SINHA, Presiding Officer

[No. L-20012(16)/86.D.III (A)/IR (Coal-I)]

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, AT DHANBAD

Reference No. 223/86

Employers in relation to the management of Ena Colliery

AND

Their Workmen.

The humble petition on behalf of the parties to the reference most respectfully sheweth:—

1. That the specific issue reference to the Hon'ble Tribunal for adjudication may be extract below:—

SCHEDULE

“Whether the demand of R.C.M.S. that the management of Ena Colliery of M/s. BCCL should allow resumption of duties to Sri Sudarshan Bouri, Ex-Casual Wagon Loader who had worked at the Colliery upto 1976 is justified? If so to what relief the concerned workman is entitled?”

2. That the present dispute has already been settled and a comprehensive settlement dated 6-8-86 has been drawn up between the parties in the course of conciliation proceedings on various demands raised by the union.

3. That according to the terms of the aforesaid settlement the concerned workman was allowed resumption of his duty, as Badli Miner/Loader instead of “Casual Wagon Loader” in accordance with management's policy dated 4-8-80 on the strength of putting attendance of more than 75 days between 1973 to 1976 as delisted casual Wagon Loader.

4. That the concerned workman has already been made permanent thus there is no dispute subsisting.

Under the facts and circumstance stated above the Hon'ble Tribunal will be graciously pleased to pass “no dispute” Award.

For the Workman :

1. Illegible
2. Illegible

For the Employer :

1. Illegible
2. Illegible

नई दिल्ली, 19 अक्टूबर, 1989

का० आ० 2813.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मैसर्स भारत कोकिंग कोल लि० के मुख्यालय प्रशासन के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं० 2), धनबाद के पंचाट को प्रकाशित करती है जो केन्द्रीय सरकार को 11-10-1989 को प्राप्त हुआ था।

New Delhi, the 19th October, 1989

S.O. 2813.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Headquarters Administration of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government on the 11-10-1989

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL (NO. 2) AT DHANBAD

PRESENT

Shri I. N. Sinha,

Presiding Officer.

Reference No. 81 of 1986

In the matter of an Industrial dispute under Section
10(1)(d) of the I.D. Act, 1947.

PARTIES :

Employers in relation to the management of Head-
quarters Administration of M/s. Bharat Coking Coal
Limited and their workmen.

APPEARANCES :

On behalf of the workmen.—Shri R. P. Singh, Working
President, Colliery Karamchari Sangh.On behalf of the employers.—Shri R. S. Murthy, Ad-
vocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 3rd October, 1989

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012 (857)/85-D.III(A), dated, the 27th January, 1986

SCHEDULE

"Whether the action of the management of Headquarters Administration of M/s. Bharat Coking Coal Limited, Koyala Bhawan, Dhanbad in reverting Smt. Prema Subramaniam, Sr. P.A. to the post of Sr. Stenographer (from Technical Grade-A to Technical Grade-B) is justified? If not, to what relief she is entitled "

The case of the workman is that the concerned workman Prema Subramaniam was originally appointed as Typist under the management with effect from 1-7-72. She was promoted to the post of Junior Stenographer with effect from 1-10-75 vide letter dated 27/3-3-1985. She was again promoted to the post of Sr. Stenographer with effect from 7-10-77.

A departmental promotion-cum-selection committee was formed by the management which was entrusted to conduct a regular examination of the eligible candidates from amongst the Sr. Stenographers working in different unit, headquarters collieries of the management, and to recommend the names of the successful candidates for promotion to the next higher post of Sr. Personnel Assistant (hereinafter referred to as Sr. P.A.). The said D.P.C. held and conducted a written test on 8-1-83 in which the concerned workman also appeared along with other candidates. She passed the aforesaid written test and as such her name was recommended by the D.P.C. for promotion to the post of Sr. P. A. in Technical and Supervisory Grade-A. On the basis of the recommendation of the D.P.C. and after due approval of the management's competent authority she was promoted to the post of Sr. P.A. with effect from 15-11-83. The name of the concerned workman was included in the first list of 12 promotees in which her name appeared at Sl. No. 9 in order of merit vide office order dated 15-11-83. She worked in the capacity of Sr. P.A. with effect from 15-11-83 with the entire satisfaction of the officers under whom she worked. She also completed one year probation on promotion as envisaged in the office order dated 15-11-83

as Sr. P.A. and was granted annual increment and according to the established practice and procedure of the management was confirmed in the post of Sr. P.A. Vide office order dated 5-1-85 the concerned workman was reverted to the post of Sr. Stenographer with effect from 15-11-83 on flimsy and frivolous ground. She made several representations personally as well as through her union for not giving effect to the aforesaid illegal order of her reversion but the management paid no heed. Thereafter an industrial dispute was raised before the ALC(C) Dhanbad and after the conciliation ended in failure, the present reference was sent to this Tribunal for adjudication by the Govt. of India, Ministry of Labour.

The management in violation of the provision of the Industrial disputes Act and all normal norms of natural justice and fair play deducted the wages of the concerned workman for the period during which she had worked as a Sr. P. A. According to the workmen the order of reversion passed by the management is unjust arbitrary, illegal, unfair and without jurisdiction. The reversion was not done by a competent authority. The reversion in effect was reduction in rank of the concerned workman. The retrospective effect has resulted in the loss of the salary of the concerned workman by way of illegal deduction of wages. The order of promotion having been made on the basis of the DPC report cannot be made null and void at the instance of some interested authorities. On the above facts it has been prayed that the order dated 5-1-1985 be set aside and the management be directed to restore the concerned workman to the post of Sr. P. A. with effect from 15-11-83 with consequential benefits.

The case of the management is that there is no employer employee relationship between the management and the concerned workman and the dispute does not fall within the scope of Section 2(k) of the I.D. Act. The reference order suffers from a fatal defect by making assumption that the concerned workman was reverted from Technical Grade-A to Technical Grade-B whereas in actual fact the promotion order wrongly given in the case of the concerned workman placing her in Technical Grade-A from Clerical Grade Special was cancelled.

The management had formulated a promotion policy for ministerial cadre employees in BCCL in 1977 in consultation with the trade union functioning on the Central Consultative Committee, which is a forum in the nature of worker's participation in the management consisting of the representatives of the management and the principal trade unions functioning in the different collieries and establishment of BCCL. For the purpose of selection from the post of Sr. Stenographer to Sr. P.A. all the eligible employees in the entire company have to be taken into account and the seniority has to be taken companywise. The management for the purpose of selection to the post of Sr. P.A. from among Sr. Stenographer held test in short hand on 8-1-83, 9-1-83 and 5.3.83 and the departmental promotion committee thereafter considered the case of those who obtained a minimum speed of 100 W.P.M. The D.P.C. for that purpose met on 16-3-83 and recommended the names of 76 candidates. The management at the higher level approved the recommendation of the D.P.C. in the belief that there was no mistake and irregularity in the selection. As per the selection list submitted by the D.P.C. which was in order of merit of the candidates, the management promoted 24 Sr. Stenographer to the post of Sr. P.A. by a separate office order issued on 15-11-83 in respect of 12 candidates (including the concerned workman) 7-1-84 (in respect of 11 candidates) and 27-4-1984 (in respect of one candidate). The concerned workman who was in Sl. No. 9 of the selection list was promoted by the first office order dated 15-11-83.

In August, 1984 a large number of Sr. Stenographers had complained to the management about the alleged irregularities in the test held in January and March, 1983 and the selection made by the D.P.C. in March, 1983. The BCCL Staff Coordination, a union operating in BCCL also made a complaint to the management in September, 1984. They

had also met the then Director of Personnel of the company and ventilated their grievance about the alleged irregularities in the selection of Sr. P. As. Thereafter the management appointed a committee of officers to recheck the short hand test papers of the candidates in respect of the test and to submit their report. The report of the said committee revealed that the concerned workman Smt. Prema Subramoniam, Shri B. N. Ghosh, Shri Sushil Jha and Shri Suresh Ch. Gupta were wrongly declared as having qualified to the short hand test in the selection of Sr. P.A. although they had failed in the said test and did not achieve the minimum speed of 100 W.P.M. The report of the enquiry committee also revealed that 18 other Sr. Stenographers who had actually qualified in the shorthand test were shown to have failed in the test. All these developments were in the knowledge of the concerned workman. In view of the above the management decided to take the necessary rectificatory action and accordingly by an order dated 5-1-85 the management cancelled the promotion order issued earlier in the case of the concerned workman and 3 other retrospectively from the date the earlier promotion order were issued. The said promotion order of the concerned workman and the three others was invalid right from the beginning. The management also issued a further order dated 7/8-8-85 promoting the 18 Sr. Stenographers who had actually qualified in the short hand test and become eligible for promotion but were wrongly shown as having not qualified. It is submitted on behalf of the management that when mistakes are made in such cases, the management have the inherent power to rectify the same and the action taken by the management was bonafide in reverting the concerned workman to the post of Sr. Stenographer. In the above view of the matter, according to the management their action in cancelling the promotion order of the concerned workman to the post of Sr. P.A. and putting her back in the post of Sr. Stenographer in Clerical Special grade is justified and as such the concerned workman is entitled to no relief. It is further submitted on behalf of the management that the case of the concerned workman is not a case of reversion as what has been done by the management is only the cancellation of the promotion order wrongly issued whereas reversion has a different connotation and implication. It is also submitted that the concerned workman is no longer in the employment of BCCL since October, 1985, long before the present reference was made to this Tribunal. The concerned workman had applied for transfer to C.M.P.D.I.L. Institute (Regional Institute No. 1) Asansol which is a different company and she had given an undertaking to go there in the lower post of Personal Assistant/Sr. Stenographer in Clerical Grade special and that she would sever all her connection with BCCL from the date of her transfer. In the light of the said undertaking given by the concerned workman, the present dispute no longer survives. Since the concerned workman was not in the employment of BCCL as on the date of reference and even now there is no employer employee relationship between her and the management. On the above facts it is stated that an Award be passed in favour of the management.

The point for decision in this case is whether the reversion of the concerned workman from Sr. P.A. to the post of Sr. Stenographer is justified.

The management examined three witnesses and the workmen examined one witness in support of their respective case. The documents of the management have been marked Ext. M-1 to M-20 and the documents of the workmen are marked Ext. W-1 to W-16 out of which some of the documents are common in the exits of both the parties.

It is the admitted case of the parties that the concerned workman who was working as Sr. Stenographer had appeared in the test for selection to the post of Sr. P.A. in 1983 and that she was selected by the D.P.C. for being promoted to the post of Sr. P.A. Ext. M-8 dated 15-11-83 is the officer order which shows that on the recommendation of the D.P.C. the 12 Sr. Stenographer were promoted to the post of Sr. P.A. with immediate effect. It further shows that the name of the concerned workman is at Sl No. 9 of the list. It is also admitted that she started working as Sr. P.A. after the office order dated 15-11-83.

Ext. W-10 dated 5-1-85 is the office order issued under the signature of Additional Chief Personnel Manager (E) by which the concerned workman and three others who had been promoted as Sr. Stenographers had not qualified in the short hand test and as such they were not entitled to be promoted as Sr. P.A. and accordingly the management decided to rectify the mistake/irregularity and to cancel the promotion order retrospectively issued in the case of the concerned workman and three others from the post of Sr. P.A. to the post of Sr. Stenographer. Thus admittedly the promotion order of the concerned workman to the post of Sr. P.A. was cancelled retrospectively and she stood reverted to the post of Sr. Stenographer with effect from 15-11-83. It has been submitted on behalf of the concerned workman that the said order Ext. W-10 was bad in law and cannot be given effect to as she had not been given notice under Section 9(A) of the I.D. Act.

It will appear from the facts as stated in the Award of Ref. No. 273/1986 marked as Ext. M-20 that a dispute was raised by RMS in respect of 23 persons that those 23 persons should be given promotion as Sr. P.A. by the management of BCCL. The union in the said reference had raised an industrial dispute that the concerned workman of the said reference were entitled to be promoted as Sr. P.A. and for that they had challenged the selection to the post of Sr. P.A. by which the concerned workman (Smt. P. Subramaniam) had been promoted in the first list. The workmen had challenged the selection of the workmen to the post of Sr. P.A. on the ground that the promotion to the post of Sr. P.A. made by the D.P.C. which had considered the case of promotion of the Sr. Stenographers was not properly constituted as required by the cadre scheme and was constituted arbitrarily in violation of the norms laid down in the cadre scheme. Other objection was that as per the cadre scheme the promotions were to be made on the basis of seniority-cum-merit but the promotion were made arbitrarily by allotting arbitrary and irrational marks under different heads. The Tribunal held in the said award that the D.P.C. was not constituted according to the cadre scheme and the said constitution of the D.P.C. was in violation of the norms laid down in the cadre scheme. It was also held by the Tribunal that the promotions to the post of Sr. P.A. were not made on the basis of seniority-cum-merit and as such the entire list of promotion and the promotions of the persons from the post of Stenographers to the post of Sr. P.A. had to be discarded as no valid promotions could be made on the basis adopted by the management. Finally the Tribunal held that the entire procedure regarding the promotion of the Sr. Stenographers to the post of Sr. P.A. was illegal and arbitrary and the said promotion therefore cannot be sustained and all the promotions have to be set aside and the management should reconsider the matter of promotion of all the Sr. Stenographers to the post of Sr. P.A. in accordance with the principles as laid down in the cadre scheme. The said Award is still in force. In view of the fact that the selection of the Sr. Stenographers to the post of Sr. P.A. have been set aside, the promotion of the concerned workman which was made by the said D.P.C. has also been set aside and there is now no legal promotion order by the D.P.C. by which the concerned workman can claim that she had been promoted from the post of Sr. Stenographer to the post of Sr. P.A. As the promotions of all the Sr. Stenographers to the post of Sr. P.A. which was made on the recommendation of the D.P.C. in 1983 has been cancelled, the promotion of the concerned workman also is automatically cancelled.

I have elaborately dealt with the facts, evidence and circumstances while discussing the matter in the Award Ext. M-20. However I would discuss the evidence in short which has been adduced in the present reference to show as to why the promotion of the concerned workman along with 3 others was cancelled.

The order of cancellation of the promotion of the concerned workman is Ext. W-10 in which the ground for cancelling the promotion of the concerned workman and 8 others has been stated. The office order Ext. W-10 shows that the promotion of Sr. Stenographers to the post of Sr.

P.A. in Technical and Supervisory Grade-A had been effected. Thereafter complaints and representations were made by some of the Sr. Stenographers who were not promoted and also by some of the trade union against the said promotion orders and some irregularities were alleged. The order states that the entire matter was fully investigated by the management and it was concluded on checking up the relevant paper relating to shorthand test and the proceeding of the D.P.C. that the concerned workman and 3 other Sr. Stenographers had not actually qualified in the shorthand test according to the standard adopted by the D.P.C. and there were irregularities and lapses in this respect on the part of the D.P.C. which was overlooked and lost sight of while processing the case prior to the issue of the promotion orders issued in their case which had vitiated and rendered, the promotion null and void. It was further stated that since the concerned workmen and 3 others did not qualify in the shorthand test, they were not at all entitled to be promoted and in that view of the matter the management decided to rectify the mistake/irregularity and cancelled the promotion orders retrospectively issued in the case of the concerned workman and three others. It will thus appear from the office order Ext. W-10 that the management has given full reasons as to why the promotion of the concerned workman was cancelled and she was put back to her post of Sr. Stenographer. It will also appear from this order that the promotion of the concerned workman to the post of Sr. P.A. was cancelled because of irregularity in as much as she had not qualified for the post of Sr. P.A. but even then she was promoted to the post of Sr. P.A. Thus it does not appear to be a simple case of reversion but it is a case of cancellation of her promotion on account of the fact that there was irregularity and mistake in promoting her to the post of Sr. P.A. and that she had not actually qualified for being promoted to the post of Sr. P.A.

The management examined MW-1 Shri R. S. Giri who appears to have worked in the different posts where the efficiency of short hand was required. It will appear from his evidence that vide Ext. M-1 dated 16-9-84 which is a note under the signature of Shri B. A. P. Singh, Director of Personnel by which a committee was constituted to re-assess the shorthand answer books of the Sr. Stenographer who had appeared in the test for promotion to the post of Sr. P.A. in 1983. This witness MW-1 was one of the members who constituted to the said committee which re-assessed the answer books. He has stated that the committee assessed all the answer books relating to the shorthand examination held on 8-1-83. He has stated that the committee had assessed the short hand answer book of the concerned workman which is Ext. W-2 in the case. He has stated that the original answer book Ext. W-2 was assessed by Shri M. S. Abodin, Private secretary to the Director of Personnel and had assessed 103.3 W.P.M. in the shorthand writing of the concerned workman. According to MW-1 the assessment of the committee is recorded below the assessment of Shri Z. A. Abodin and is signed by all the three members who constituted the committee. He has stated that their assessment of the speed of the concerned workman was 97 words in shorthand per minute. There is marking on the answer book of the concerned workman an Ext. M-2 and the original marking by Z. A. Abodin is 103.3 W.P.M. whereas the committee found the correct speed of the concerned workman as 97 W.P.M. There is nothing in the cross-examination of MW-1 to show that the assessment of the speed of the concerned workman as found by the committee was not correct. Accordingly it has to be held that the committee had found the speed of shorthand of the concerned workman as 97 W.P.M. MW-3 is Shri S. I. Keshwani who was working as Additional Chief Personnel Manager, Establishment at Koyala Nagar in December, 1984 who had dealt with the case of the concerned workman. Ext. M-15 is the order dated 31-12-84 passed by Shri R.A.P. Singh, Director of Personnel BCCL, by which the concerned workman as reverted from the post of Sr. P.A. to the post of Sr. Stenographer Ext. M-7 is the proceeding of the D.P.C. which held the test for selection of Sr. Stenographers to the post of Sr. P.A. in 1988. It will show that for the stenographers test 100 W.P.M. was the criteria but the committee which re-assessed

the shorthand copy books found that the speed of the concerned workman was 97 W.P.M. and as such he could not have qualified for selection to the post of Sr. P.A. as was the criteria laid down by the D.P.C. in Ext. M-7. The management has given reason for reversion of the concerned workman in Ext. W-10 and the reason given in Ext. W-10 is fully supported by the evidence of MW-1. WW-1 is the concerned workman. She has stated that she had got reversion order Ext. W-10 dated 5-1-85 reverting her to the post of Sr. Stenographer and that the ground for her reversion is stated in Ext. W-10. She has further stated in the last para of her examination-in-chief that the Award passed in Ref. No. 273/86 is concerning the present case of hers. She has further stated that so far her case is concerned the excess salary paid to her for the post of Sr. P.A. has been deducted and she has been reverted back to the post of Sr. Stenographer but in the case of workmen of Ref. 273/86 they are still working as Sr. P.A. and the amount of the salary paid to them for the post of Sr. P.A. has not been deducted although there was an order in the Award for their reversion from the post of Sr. P.A. to the post of Sr. Stenographer and as such she claims to set aside the order of her reversion and to promote her to the post of Sr. P.A. It will thus appear that she has given a go-by to her case in the W.S. and has claimed that as the other persons promoted to the post of Sr. P.A. have not been reverted as per Award of the Tribunal she should be reinstated in the post of Sr. P.A. So far this Tribunal is concerned the entire selection of the Sr. P.A. has been set aside and the management was directed to constitute a fresh D.P.C. in accordance with the cadre scheme and to consider the case of the eligible candidates for the post of Sr. P.A. It is not within the knowledge of this Tribunal nor it is the function of this Tribunal to execute the orders passed in the Award. The execution of the Award has to be done by the Govt. through the agencies of CLC's organisation and the claim of the concerned workman that as others have not been reverted back to the post of Sr. Stenographer she should also be reinstated in the post of Sr. P.A. is not a matter which is for decision in the claim of this Tribunal. The fact remains that the entire promotion of the Sr. P.A. has been set aside the Tribunal cannot pass the order for the reinstatement of the concerned workman to the post of Sr. P.A.

It is admitted by the concerned workman in her evidence as WW-1 that she has been transferred to C.M.P.D.I.L. Asansol on 5-10-85 on her request and she had gone there with one grade below than the post of Sr. P.A. which she was holding at that time. She had joined there as P.A. The petition given by her is Ext. M-18 in the case. She has stated in Ext. M-18 that she will sever all connections from BCCL. This reference was made to this Tribunal on 27-1-86 whereas she had already joined in C.M.P.D.I.L. Asansol on 5-10-85 severing all connections with BCCL. Thus at the time when this reference was made she was not an employee of BCCL and there is no relationship of employer and employee between the BCCL and the concerned workman when the present reference was made to this Tribunal.

In view of the discussions made above I hold that the cancellation of the promotion of the concerned workman from the post of Sr. P.A. to Sr. Stenographer was not an order of reversion in the real sense but in fact it was an order of cancellation of the promotion of the concerned workman to the post of Sr. P.A. on the ground that she had not qualified for the post of Sr. P.A. and that through mistake and irregularity she was shown to have qualified for the post of Sr. P.A.

In the result, I hold that the action of the management of Headquarters Administration of M/s. B.C.C.L. Koyala Bhawan, Dhanbad in cancelling the promotion of the concerned workman from the post of Sr. P.A. to the post of Sr. Stenographer was not reversion and that the cancellation

of her promotion was quite justified. Accordingly the concerned workman is entitled to no relief.

This is my Award.

Sd/-

I. N. SINHA, Presiding Officer
[No. L-20012(257)/85-D.III(A)/IR(Coal-D)]

का आ. 1814.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नैसर्ग भारत कोकिंग कोल लि. का मुंडाईह कोलियरी के प्रबंधन से सम्बद्ध विवादों और उनके कर्म-कारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अविकरण (सं. 1), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-10-1989 का प्राप्त हुआ था !

S.O. 2814.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. I, Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Mudidih Colliery of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government on the 9-10-1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 19 of 1988

PARTIES :

Employers in relation to the management of Mudidih Colliery of M/s. B.C.C. Ltd.

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Employers : Shri G. Prasad, Advocate.

For the Workmen : Shri S. N. Bhattacharjee and Shri S. N. Goswami, Advocates.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 26th September, 1989

AWARD

By Order No. L-20012(172)/83-D.III(A), dated, the 28th October, 1983; the Central Government in the Ministry of Labour, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to Central Government Industrial Tribunal No. 3, Dhanbad. Subsequently the dispute has been transferred to this Tribunal vide Ministry of Labour's Order No. S-11025(7)/87-D.IV(B) dated 31st December, 1987/12th January, 1988. The schedule of the dispute runs as follows :

"Whether action of the management of Area-V of Messrs. Bharat Coking Coal Limited in not reinstating Shri Basdeo Singh, Miner from 2-9-81 is justified? If not, to what relief is the workman entitled?"

2. The case of the management of Mudidih Colliery as set out in the written statement, details apart, is as follows :

Mudidih colliery is a coking coal mine which was nationalised with effect from 1-5-1972. The concerned workman continuously absented from duty without information, leave or permission of the management since January, 1973. He remained absent for a continuous period of 9 years and thereby he abandoned his employment. After remaining absent for long 9 years he presented himself for work on 2-9-81 and produced a fake medical certificate purporting to show that he was continuously ill. As per the said certificate he remained continuously ill and was, therefore, medically unfit to perform his duty. He was not discharged from service on the ground that his services were no longer required. On the contrary he was not fit to continue in service and his physical condition prevented him for rendering service for which he was employed. The reason for his abandonment of service is that he could not render service required of him which, under the contract of service he was bound to render. His services cannot be said to have been terminated either by way of discharge, dismissal or retrenchment. His services came to an automatic end by his abandonment of employment. If a person who absences continuously for 9 years and abandons his employment is directed to be reinstated, it would amount to giving a premium and bonus for his remaining absent for long period and abandonment of his employment. Colliery Shramik Sangh which has sponsored this dispute has no locus standi to raise it. In the circumstances the management has prayed that its action in not reinstating the concerned workman is fully justified.

3. The case of the sponsoring union, Colliery Shramik Sangh, as appearing from the written statement submitted by the President on behalf of the concerned workman, briefly stated, is as follows :

The concerned workman, Basdeo Singh, was a permanent workman of M/s. B.C.C. Ltd. upto 23-12-72. He became a victim of mental disorder and lost his balance of equilibrium. He was referred to Lunatic Ashylam, Ranchi on 7-1-73. He was admitted in Ranchi Manasik Arogyashala Kanke with the help of his men on 7-1-73. He remained sick and was under continuous treatment and supervision of an eminent Psychiatrist upto 2-9-81. During the said period (23-12-72 and 2-9-81) he and his men had reported to the management regarding his illness. After recovery from illness he reported to the management for resumption of regular duty. The management scrutinised his application, but did not provide him employment and the management of the colliery by letter dated 23/24-12-81 requested for necessary instruction from the General Manager, Area No. V. Ultimately no action was taken and the official technicalities of the management have restrained him from resumption of his duty. The Area Personnel Manager gave certain directions to C.P.M.(I.R.). West Karmik Bhawan of M/s. B.C.C. Ltd. by letter dated 8/16-2-82 but no fruitful result was ultimately achieved. In the circumstances he placed his demand before his union and the union raised this present industrial dispute. The conciliation proceeding ended in a failure and the appropriate Government was pleased to refer the present industrial dispute for adjudication by this Tribunal. He is a permanent employee of Mudidih colliery; the management has not deleted or struck off his name from the colliery roll; he did not absent from duty intentionally he was prevented by his illness from reporting for duty. He provided information to the management about his absence and illness by letter sent under registered post and under certificate of posting. He was confined to the hospital for treatment of his illness from 7-1-73 to 2-9-81. He is now physically fit to resume his duty. He did not receive assistance from the management for his treatment. He produced Expert certificate before the management and the management accepted the document produced by him. In the circumstances he has prayed that the action of the management in not reinstating him in service is unjustified.

4. In the rejoinder to the written statement of the sponsoring union the management has denied that the concerned workman was a permanent workman of the colliery. It has been asserted that he did not submit any explanation for his absence from duty for the period from 23-12-72 to 6-1-73.

It has been disputed by the management that he was admitted in Ranchi Manasik Arogyashala for treatment on 7-1-73 and that he was under the treatment of an eminent Psychiatrist there. He did not inform the management about his illness and letters purported to have been sent under registered post and certificate of posting have not been received by the management. As per his own admission he was sick and was not in physical and mental condition to resume his duty. He and his union clandestinely managed to obtain photo copies of the letters of the management and thereby tampered with official secrecy and the employer lost his confidence in the concerned workman. He abandoned his employment and so he was not allowed to resume his duty. Since he remained absent continuously for about 4/5 years his name was struck off as he abandoned his employment. The certificate produced by him was never accepted by the management as genuine.

5. The management examined two witnesses, namely, M.W. 1 Zahur Khan and M.W. 2 H. R. Choudhury, but has not adduced any documentary evidence. On the other hand, the concerned workman has examined himself as W.W. 2 and one of his co-workers, Chintamani Mahato as W.W. 1 and introduced in evidence photo copies of the letters of the management marked Exts. W-1 and W-2.

6. Admittedly the concerned workman, Basdeo Singh, was employed as Miner/Loader in Mudidih Colliery of M/s. B.C.C. Ltd. The case of the sponsoring union is that he was employed as a permanent workman of the said colliery. This has been disputed by the management. The union has not adduced any evidence, oral or documentary, supportive of the fact that the concerned workman was a permanent employee of the said colliery. Anyway, the fact remains that he was employed as a workman in the said colliery. Shri G. Prasad, learned Advocate for the management has submitted that in the present industrial dispute the management has been called upon to justify its action for not reinstating the concerned workman in service. According to him reinstatement presupposes dismissal, termination, retrenchment or discharge from service and the management not having resorted to any of the modes for determination of his service, the present reference is not maintainable. There may be a number of circumstances in which the contract of industrial employment may be determined, such as, death, impossibility, frustration, abandonment, voluntary retirement, superannuation, retrenchment discharge under the contract, discharge on transfer or closure of the establishment and dismissal by way of punishment. Abandonment of employment is one of the modes of determination of contract of employment. That being so, this mode of determination of service can give rise to industrial dispute and consequently order of reinstatement can be passed in the event of abandonment of employment not being proved. Hence, the contention of Shri Prasad that the present industrial dispute is not maintainable has got no substance and must perforce be dismissed.

7. The pleadings and evidence on record establish the fact that the concerned workman performed his duties in the colliery upto 23-12-73 and thereafter he absented himself from duty till 2-9-1981. The case of the concerned workman is that he became a victim of mental disorder and lost his balance of equilibrium and that he was referred to Lunatic Ashylum, Ranchi (Ranchi Manasik Arogyashala Kanke) on 7-1-73. His further case is that he was admitted in Ranchi Manasik Arogyashala Kanke on 7-1-73 and was under the treatment of an eminent Psychiatrist there upto 2-9-81. Thus, it is evident from the pleading of the sponsoring union that the concerned workman was referred to Ranchi Manasik Arogyashala but the pleading is absolutely silent as to who referred him to Ranchi Manasik Arogyashala. At the time of hearing the concerned workman and his witness contrived to fill in this lacuna by stating that he was referred by the Colliery Doctor, one Dr. Mukherjee for treatment in mental hospital. The concerned workman has stated that he was suffering from mental disorder and at that time one Mukherjee was the colliery Doctor and he advised him for treatment elsewhere. WW-1 Chintamani Mahato, a colleague of the concerned workman, has stated that the concerned workman underwent treatment in colliery dispensary and the doctor of the colliery advised him for treatment in mental hospital. But this fact has not found place in the pleading of the sponsoring union

and so the evidence of the concerned workman and his witness is considered nothing but a ramification of fact made for the purpose of filling in the lacuna in the case. Hence, I have no hesitation to disbelieve this part of the testimony of the concerned workman and his colleague that he was advised by the colliery doctor for treatment in mental hospital.

8. The case of the sponsoring union is that the concerned workman was admitted in Ranchi Manasik Arogyashala on 7-1-73 with the help of his men and that he underwent treatment there under an eminent Psychiatrist upto 2-9-81. WW-1 Chintamani Mahato has stated that the brother and nephew of the concerned workman told him that he (concerned workman) was taken to Kanke Mental Hospital for treatment. His evidence in this respect is hearsay evidence since neither the brother nor the nephew of the concerned workman has come forward to support his testimony. The concerned workman has stated that he underwent treatment in Ranchi Mental Hospital. But he could not produce a whit of paper in support of the fact that he was admitted in Ranchi Mental Hospital for treatment and remained there from 7-1-73 till his recovery on 2-9-81. It appears that as per his contention he allegedly remained in Ranchi Manasik Arogyashala for over 9 years and it is a wonder that he could not produce a whit of paper in support of his evidence that he had undergone treatment there.

The learned Advocate for the concerned workman has submitted that the original certificate was produced by the concerned workman to the management of the colliery when he reported for duty after recovery from his illness. He has pointed out to me two letters of the management—one dated 23/24-12-81 (Ext. W-1) and the other dated 8-2-82 (Ext. W-2). From these letters it is evident that a medical certificate of Ranchi Manasik Arogyashala was produced by the concerned workman before his employer. But the sponsoring union has not made any attempt to produce this certificate either by calling for the original from the management or by producing a copy thereof by way of secondary evidence. That apart, medical certificates are not themselves admissible in evidence. They must be proved by the testimony of persons giving them. This being the legal and factual position, I am constrained to come to the conclusion that the concerned workman did not or could not produce even a shred of evidence in support of the fact that he was admitted to Ranchi Manasik Arogyashala for treatment of his mental disorder.

9. Admittedly the concerned workman remained absent from duty for almost long 9 years from 24-12-72 to 2-9-81. The specific case of the sponsoring union in the pleading is that during this period the concerned workman and his men had reported to the management regarding the illness of the concerned workman. But the concerned workman has not stated anything in support of this fact at the time of hearing. Some photostat copies of postal receipts were filed alongwith written statement of the sponsoring union. But neither the copy of the letter was produced nor was the original of such letter called for from the management. Besides original postal receipts have not been produced nor is there anything on record or evidence to suggest that these postal receipts are referable to the letters purported to have been sent by the concerned workman and his men about his illness. This being the position, I am constrained to hold that the concerned workman has failed to prove by evidence that he informed the management about his illness. Thus, the fact remains that the concerned workman remained absent from duty for almost long 9 years without any intimation or information to the management.

10. The service condition of workman of Mudidih colliery of M/s. B.C.C. Ltd. is admittedly governed by Modal Standing Order. There is no provision in the Modal Standing Order for loss of employment upon abandonment of service. The Supreme Court has held in the case reported in AIR 1964 (SC) 1272 (Buckingham and Carnatic Co. Ltd. Vs. Venkatiah and another) that 'It is true that under common law an inference that an employee has abandoned or relinquished service is not easily drawn unless from the length of absence and from other surrounding circumstances an inference to that effect can be legitimately drawn and it can be assumed that the employee intended to abandon service. Abandonment

or relinquishment of service is always a question of intention, and normally, such an intention cannot be attributed to an employee without adequate evidence in that behalf'. In the present case the concerned workman remained absent from duty for almost long 9 years without, as the evidence discloses, any information to the management. It is reasonable to draw an inference for his long absence from duty without information to the management that the concerned workman intended to abandon his employment.

It is the case of the management that the name of the concerned workman was struck off from the rolls consequent upon his abandonment of employment. It is not simply a case of striking off the name of the workman from the rolls of the management and so the question of retrenchment within the meaning of Sec. 2(oo) of the Industrial Disputes Act has no manner of application in so far as the present case is concerned.

11. Shri G. Prasad, Advocate for the management has referred the case reported in 1988 Lab. I.C. 288 (Managing Director Vs. Babasaheb Devgonda Patil and another). In the case cited the respondent absented from duty without prior sanction or leave from 1st July, 1979 and he remained continuously absent for a period of about 3 years till March, 1982. In the context of this fact the Hon'ble Court concluded that the workman abandoned his service voluntarily and that the removal of his name from the Roster is a mere formality and does not amount to retrenchment. The present case is almost similar on line with the case cited.

12. Considering all these facts and circumstances I am constrained to hold that the management did no wrong by refusing to reinstate the concerned workman in service from 2-9-1981.

13. Accordingly, the following award is rendered—the action of the management of Area-V of M/s. Bharat Coking Coal Ltd. in not reinstating the concerned workman, Basdeo Singh, in service from 2-9-1981 is justified.

In the circumstances of the case I award no cost.

S. K. MITRA, Presiding Officer

[No. L-20012(172)/83-D.III.(A)/IR(Coal-I)]

नई दिल्ली, 25 अक्टूबर, 1989

का.आ. 2815 :—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अन्वय में केन्द्रीय सरकार प्रैमर्स सेंट्रल कोल फील्ड्स लि. की राजहरा कोलियरी के प्रबन्धतंत्र से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अन्वय में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 2) धनबाद के पंचाट को प्रकाशित करती है जो केन्द्रीय सरकार को प्राप्त हुआ था।

New Delhi, the 25th October, 1989

S.O. 2815.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the employers, in relation to the management of Rajhara Colliery of M/s. Central Coalfields Ltd. and their workmen, which was received by the Central Government.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD.

PRESENT :

Shri I. N. Sinha,

Presiding Officer.

Reference No. 158 of 1987

In the matter of an industrial dispute under Section 10(1)(d) of the I. D. Act., 1947.

PARTIES :

Employers in relation to the management of Rajhara Colliery of M/s. Central Coalfields Limited, P.O. Rajhara, Dist. Palamau and their workmen.

APPEARANCES :

On behalf of the workmen:—None.

On behalf of the employers.—Shri R. S. Murthy, Advocate.

STATE.—Bihar.

INDUSTRY.—Coal.

Dated, Dhanbad, the 4th October, 1989.

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012(53)/86-D.IV(B), dated the 9th June, 1987.

THE SCHEDULE

“Whether the demand of the workmen of Rajhara Colliery of M/s. C. C. Ltd., P. O. Rajhara, Dist. Palamau that the Management should treat S/Sri Ramandan Kumar, Lal Mohan Mahto, Ramasis Mahto, Rampravesh Mahto, Krishna Saw Sakchichand Singh, Kameshwar Mahto, Basudeo Kumhar, Sahdeo Kumhar, Bimal Kumhar, Dinesh Kumhar, Smt. Phulwa Kunwar, Sri Krishna Ram, Ramesh Ram and Smt. Sushila Kunwal Clay Cartridges Mazdoors as their workmen and that they should be paid Cat. I wages is justified? If so, to what relief the said workmen are entitled and from what date?”

The case of the workmen is that the concerned workmen Ramandan Kumhar and 14 others named in the schedule to the order of reference have been working as permanent clay cartridge mazdoor in Rajhara colliery of M/s. C. C. L. since long. They have been working continuously in the permanent nature of job within the precinct and premises of Rajhara mine. They were working as clay cartridge mazdoor under the direct control and supervision of the colliery management as the ultimate

decision to accept and reject clay cartridges depended on the management. All the necessary implements and materials for preparing clay cartridges were being supplied by the management. The concerned workmen have been rendering their services and producing goods for the benefits of the colliery management. The management has implemented the Wage board recommendation and NCWAs. As per recommendation of Coal Wage Board the clay cartridge makers are entitled for Cat. I wages. The main function of Rajahara colliery is to raise coal for selling and the same cannot be achieved in absence of clay cartridges. The management with an ulterior motive to deprive the concerned workmen are disbursing their wages through one of the concerned workman describing him as alleged supplier. The management has been paying wages to the concerned workmen which is even less than the minimum wages. The concerned workmen and their union represented before the management several times for their regularisation as clay cartridge mazdoors and for payment of Cat. I wages but without any effect. Thereafter the union raised an industrial dispute before the ALC(C) which ended in failure and thereafter the present reference was made to this Tribunal for adjudication. The action of the management in denying regularisation as direct employees and denial of Cat. I wages to them is illegal, arbitrary, unjustified and against the principles of natural justice. On the above facts it has been prayed that the concerned workmen and be regularised as direct employees of the management be paid Cat. I wages and other benefits with retrospective effect.

The case of the management is that there was no relationship of employer and employee between the management and the concerned workmen. The concerned workmen were never employed by the management. The clay cartridges are required in collieries to be used as stemming materials in the process of blasting in the underground mines and sometimes in annual quarries also clay cartridges are required to be used as stemming materials. The management has been purchasing these clay cartridges since long from the suppliers like any other materials required for consumption in the collieries. Rajahara colliery had previously underground mine which was closed in the month of March, 1985 and thereafter there is only one open cast mine. The supplier of the clay cartridges was getting the clay cartridges manufactured in his village by making his own arrangement and he used to take the services of his female members in preparing the clay cartridges. The management is not aware that the concerned workmen other than Sri Ramanandan Kumhar were ever manufacturing clay cartridges and as such there is no reason for the management for treating them as workmen or paying them Cat. I wages. Considering the limited requirement of clay cartridges there can be no question of engaging 15 persons for preparing clay cartridges. On the above facts it is prayed on behalf of the management that it be held that the demand as envisaged in the schedule to the order of reference is not justified and the concerned persons are not entitled to any relief.

The only point for consideration in this case is whether there was any relationship of employer and employee between the management and the concerned persons and (2) whether the concerned persons are entitled to be regularised as clay cartridge makers of the management.

The management examined one witness and produced documents which have been marked Ext. M-1 to M-1/3 and the workmen have neither examined any witness nor produced any document in support of their case.

MW-1 Shri K. K. Gupta had worked as Manager in Rajahara colliery from June, 1986 to 3-2-1988. He has stated that during the said period when he was working at Rajahara colliery the underground mine of Rajahara colliery was not being worked and had closed since before he had joined. He has stated that the quarry No. 3 only was being worked in Rajahara colliery during the period of his stay which was working since about 5 to 6 years prior to his joining at Rajahara colliery. He has stated that Helco drill was being used for drilling for the purpose of blasting and the Helco drill is a part of heavy earth moving machinery. Accordingly to him clay cartridges are not required in Helco drill. He has stated that clay cartridges are required when the colliery required small hole blasting but small hole blasting was not done in Rajahara colliery. He has stated that they used to get supply of clay cartridges from outside and Ramanandan Kumhar was supplying clay cartridges to them. He has stated that Ramanandan Kumhar did not prepare the clay cartridges in the colliery premises and that the colliery management was not supplying any implement, clay or any materials for the preparation of the clay cartridges. He has also stated that truck used to be sent to Ramanandan Kumhar for bringing the clay cartridges from his village home in Rajahara. He has stated that the management did not know as to who were the persons engaged in preparation of the clay cartridges by Ramanandan Kumhar. He has also denied that Ramanandan Kumhar was preparing the clay cartridges under the supervision and direction of the management of Rajahara colliery. He has stated Ramanandan Kumhar used to be paid for the supply of clay cartridges on the bill being furnished by him. Some of the payment vouchers submitted by Ramanandan Kumhar have been marked as Ext. M-1 to M-1/3 on the basis of which payment was made for the supply of clay cartridges. It appears from his evidence that no tender used to be called for the supply of clay cartridges. There is nothing in the cross-examination of MW-1 to falsify the facts stated by him. Ext. M-1 to M-1/3 make it quite clear that Ramanandan Kumhar used to get payment in respect of supply of clay cartridges to the management. The workmen have not filed any paper or any evidence to show that any material or equipment for the manufacture of clay cartridges was supplied by the management either to Ramanandan Kumhar or other concerned person. There is also no evidence to show that the concerned workmen were preparing clay cartridges in

the colliery premises or that all the concerned workmen were appointed by management to prepare the clay cartridges but the payment for preparing the clay cartridges was being made in the name of Ramanandan Kumhar. There is also no evidence to show that the management had any supervision or control over the preparation of the clay cartridges by Ramanandan Kumhar or his men. There is also no evidence to show if the concerned persons were preparing the clay cartridges between fixed hours of work or that their attendance was maintained by the management. The evidence in the case clearly shows that Ramanandan Kumhar was supplier of the clay cartridges of the management of Rajahara colliery and was getting payment for the supply of clay cartridges on bills being submitted by him. On the facts and evidence disclosed in case it will appear that there was no relationship of employer and employee between the management of Rajahara colliery and the concerned persons and that the concerned persons were not the direct employees of the management employed for the preparation of the clay cartridges. None of the elements which constitute relationship of employer and employee has been established between the management and the concerned workmen. I hold that there was no relationship of employer and employee between the management and the concerned person. I further hold that the concerned persons are not entitled to be regularised as clay cartridge makers of the management.

In the result, I hold that the demand of the workmen of Rajahara colliery of M/s. C.C.L. that the management should treat the 15 concerned persons as their workmen and should pay Cat. I wages is not justified. Accordingly the concerned persons are not entitled to any relief.

This is my Award.

I. N. SINHA, Presiding Officer
[No. L-24012(53)/86-D.II(B)/IR(Coal-I)]

K. J. DYVA PRASAD, Desk Officer

नई दिल्ली, 6 अक्टूबर, 1989

का. आ. 2816.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसारेण में, केन्द्रीय सरकार व वेस्टर्न कोलफील्ड्स लिम. की. नाकोदा, इन्क्लाइन के प्रबन्धतंत्र से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण सं. 2 बम्बई के पंचपट की प्रकाशित करती है, जो केन्द्रीय सरकार को 26-9-89 को प्राप्त हुआ था।

New Delhi, the 6th October, 1989

S.O. 2816.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Bombay as shown in the Annexure in the industrial dispute between the employers in relation to the management of Nakoda Incline of Western Coalfields Ltd. and their workmen, which was received by the Central Government on 26-9-89.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

PRESENT :

Shri P. D. Apathankar, Presiding Officer.

Reference No. CGIT-2/11 of 1989

PARTIES :

Employers in relation to the management of Nakoda Incline of Western Coalfields Ltd.,

AND

Their workmen.

APPEARANCES :

For the Employers—Shri A. K. Sasi, Advocate.

For the workmen—No appearance

INDUSTRY : Coal Mines. STATE : Maharashtra.
Bombay, dated the 5th September, 1989

AWARD

The Central Government by their order No. L-22012 (143)/88-D.IV.B dated 19-4-1989 have referred the following industrial dispute to this Tribunal for adjudication under Section 10(1)(d) of the Industrial Disputes Act.—

- (i) "Whether the action of the Management of Nakoda Incline of M/s. W.C. Ltd. in terminating the services of late K. G. Kistaiah, General Mazdoor w.e.f. 24-4-84, is legal and justified. If not, to what relief the workman concerned is entitled?"
- (ii) "Whether the dependents of late Sri K. G. Kistaiah who died in harness on 7-2-1986 are entitled to get the benefit of employment by the Management of Nakoda Incline of W.C. Ltd.? If not, to what relief the dependants are entitled?"

2. The notices of this reference were duly served on both the parties. However, no claim statement was filed on behalf of the Union, nor any written statement was filed on behalf of the management.

3. However, during the pendency of this reference both the parties arrived at an amicable settlement and filed the terms of settlement (Ex. 2), which are thus:—

- "1. It is agreed that Sri Ramesh son-in-law of late Sri Kistaiah will be given employment as Cat. I General Mazdoor at Nakoda Incline of Ghugus SA within one month of receipt of Consent Award.
2. His employment would be subject to his fitness in the medical examination which will be conducted by the Company Medical Officer, and his age should be less than 35 years.
3. He will have to make his own arrangement for stay etc. at Ghugus.
4. An affidavit will be executed with Photograph of Shri Ramesh by him and also by Smt. Bhanu Bai W/o late K. G. Kistaiah affirming the relationship before joining duties. The above affidavit will be countersigned by the Organising Secretary, RKKMS (INTUC) at the time of submission to the Management.
5. He will be on probation for a period of one year from the date of his joining duties as per this settlement, and his performance shall be watched during that period and after satisfactory performance he shall be confirmed in employment in writing.
6. This will be in full and final settlement and there will not be any claim whatsoever in this regard.

7. Both the parties have agreed to file this settlement jointly before the CGIT Bombay on or before the next date of hearing of the case for Consent Award."

This Memo. of Settlement has been signed by the Organising Secretary, RKKMS (INTUC) the union in question, and the officers of the management and by two witnesses. It also bears the thumb impression of Smt. Bhanu Bai, W/o late K. G. Kistaiah.

4. I find that this settlement is quite in the interests of both the parties. As such the Award must be and is drawn in terms of the settlement.

The parties to bear their own costs of this reference.

P. D. APSHANKAR, Presiding Officer

5-9-1989.

[No. L-22012(143)/88-D, IV. B/IR (C. II)]

नई दिल्ली, 9 अक्टूबर, 1989

का. आ. 2817.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचि में, केन्द्रीय सरकार व सिंगरेनी कोलियरीज कम्पनी लि. के प्रत्यक्षतंत्र में संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करता है, जो केन्द्रीय सरकार को 5-10-89 को प्राप्त हुआ था।

New Delhi, the 9th October, 1989

S.O. 2817.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal, Hyderabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Singareni Collieries Co. Ltd. Area-I, Ramagundam Division and their workmen, which was received by the Central Government on 5-10-1989.

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

PRESENT :

Sri C. Rami Reddy, B.Sc., B.L., Industrial Tribunal.

Dated, 21st September, 1989

Industrial Dispute No. 29 of 1989

BETWEEN

The Workmen of S. C. Co. Ltd. Area I. Ramagundam Division, P.O. Godavari Khani, Dist. Karimnagar (A.P.).

AND

The Management of S.C. Co. Ltd. Area I Ramagundam Division, P.O. Godavari Khani, Distt. Karim Nagar, (A.P.).

APPEARANCES :

None—for the Workman.

M/s. K. Srinivasa Murthy, G. Sudha, Mitra Das and V. Usha Rani, Advocates—for the Management.

AWARD

The Government of India, Ministry of Labour by its Order No. L-22012(168)/88-D IV (B) dated 7-4-1989 referred the

following dispute under Section 10(1)(d) and (2-A) of the Industrial Disputes Act, 1947 between the employers in relation to the management of Singareni Collieries Company Limited, Area-I Ramagundam Division and their workmen to, this Tribunal for adjudication :

"Whether the action of the Management of Singareni Collieries Co. Ltd., Area-I, Ramagundam Division, P.O. Godavari Khani Dist. Karimnagar (AP) in dismissing Sri Vemula Lakshmaiah, Coalfiller, GDK 6-A Incline from service w.e.f. 9-5-1986, is justified? If not, to what relief the workman concerned is entitled?"

This reference was registered as Industrial Dispute No. 29 of 1989 and notices were issued to the parties.

2. The General Secretary of the Petitioner Union received the notice and failed to attend on 25-5-1989, and 19-6-1989 to which date the industrial dispute in question was posted for their claim statement. So the petitioner-Union was set aside. The Respondent filed the counter justifying the dismissal of the workman V. Lakshmaiah w.e.f. 9-5-1986.

3. The Respondent examined one Sri J. Laxminarayana working as Senior Personnel Officer as MW-1 and filed Exs. M-1 to M-4. It is evident from the evidence of MW-1 that the workman V. Laxminarayana were issued the charge sheet Ex. M-1 alleging that he was working as Coal Filler at G.D.K. No. 6-A Incline, Ramagundam Area, that he instigated the strike on 28-10-1985 in second shift and that he also incited the other coal fillers not to resume work in the second shift on 30-10-1985 and that the acts committed by him amounts to misconduct under 6 Company's Standing Order 16(1), 16(9) and 16(19), that he was appointed as Enquiry Officer to conduct enquiry against the workman V. Lakshmaiah that the workman participated in the enquiry, that he examined the Under Manager and the Colliery Manager concerning the Mine during the enquiry, that the workman participated in the enquiry, that the workman did not cross examine the Management witnesses that he also recorded the statement of the complainant and that he completed the enquiry by drafting proceedings marked as Ex. M-2. Further it is stated that the Enquiry Officer (MW-1) submitted his report Ex. M-3 finding the workman guilty of the charges levelled against him and submitted the enquiry report to the Management and that the Management has gone into the records and also past records in dismissing the workman V. Lakshmaiah w.e.f. 9-3-1986 under dismissal order marked as Ex. M-4. Further it is stated that the Management filed M.P. No. 81/86 under Section 33(2)(b) of the I. D. Act for approval of the action of the Management in dismissing the workman V. Lakshmaiah and this Tribunal also approved the action taken by the Management.

4. As seen from the above, there is a finding earlier in M.P. No. 81/86 to the effect that the domestic enquiry conducted against the workman is fair and proper. Further the evidence of the Enquiry Officer also revealed that he conducted the domestic enquiry as per the principles of natural justice and that he gave a full and fair opportunity to the workman and that the workman in fact participated in the domestic enquiry. Thus I see no infirmity in the domestic enquiry as well as the order of dismissal passed by the Management.

5. Accordingly an Award is passed holding that the action of the Management in dismissing the workman V. Lakshmaiah Coal Filler, GDK No. 6-A Incline, Ramagundam Area from service w.e.f. 9-5-1986 is justified.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this the 21st day of September, 1989.

C. RAMI REDDY, Industrial Tribunal

[No. L-22012(168)/88-D.IV (B)/IR (C. II)]

Appendix of Evidence

Witnesses Examined for the
Petitioner-Workman :

NIL

Witnesses Examined for the
Respondent-Management :

MW-1—J. Laxminarayana.

Documents marked for the Workman :
NIL

Documents marked for the Management :

Ex. M-1—Charge Sheet dated 7-11-85 issued to V. Laxmaiah by the Colliery Manager, GDK 6-A/8 Incline S.C. Co. Ltd., Ramagundam Area-I.

Ex. M-2—Enquiry Proceedings.

Ex. M-3—Enquiry Report.

Ex. M-4—Dismissal Order dated 9-3-1986 issued to V. Laxmaiah by the General Manager, S.C. Co. Ltd., Ramagundam Area-I.

का. आ. 2818.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार व मैमर्स सिगरानी कोलियरीज कम्पनी लि. एरिया-I रामगुण्डम डिविजन के प्रबन्धतंत्र से संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-10-89 को प्राप्त हुआ था।

S.O 2818.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby published the following award of the Industrial Tribunal, Hyderabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. Singareni Colliery Co. Ltd., Area-I, Ramagundam Division and their workmen, which was received by the Central Government on 5-10-1989.

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

PRESSENT :

Sri C. Rami Reddy, B.Sc., B.L., Industrial Tribunal.

Dated, the 21st September, 1989

Industrial Dispute No. 6 of 1989

BETWEEN

The Workmen of S.C. Co. Ltd. Area-I, Ramagundam Division, P.O. Godavarikhani-505214, Karimnagar Dist. (A.P.)

AND

The Management of M/s. S.C. Co. Ltd. Area-I, Ramagundam Division, P.O. Godavari Khani-505214, Karimnagar Dist. A.P.

APPEARANCES :

None—for the Workmen.

M/s. K. Srinivasa Murthy, G. Sudha, and Mitra Das, Advocates—for the Management.

AWARD

The Government of India, Ministry of Labour by its Order No. I-21012/29/88-D.III (B)/D.IV (B) dated 16-12-1988 referred the following dispute under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 between the employers in relation to the Management of M/s. Singareni Collieries

Company Limited, Area-I, Ramagundam Division and their Workman to this Tribunal for adjudication :—

“Whether the action of the Management of M/s. Singareni Collieries Co., Ltd., Area-I Ramagundam Division P.O. Godavarikhani, Dist. Karimnagar (AP) in dismissing Sri Solu Narasiah, Coal Cutter, GDK 6 Incline from services with effect from 16-1-1986 is justified? If not, to what relief the workman concerned is entitled?”

This reference is registered as Industrial Dispute No. 6 of 1989 and notices were issued to both the parties.

2. Notice issued to the Secretary of the Petitioner-Union and he received the notice and he failed to attend this Tribunal on 22-2-1989, 31-3-1989, 17-5-1989 and 13-6-1989 to which date this industrial dispute in question was posted for the claim statement of the Petitioner-Union. So the Petitioner-Union was set exparte.

3. The Management filed a counter justifying the dismissal of Solu Narasiah. Further the Management examined Sri J. Lakshminarayana working as Senior Personnel Officer as MW-1 and marked Exs. M-1 to M-5. It is evident from the evidence of MW-1 that the workman Solu Narasiah was working as Coal Cutter and that the charge sheet was issued to him alleging that on 14-4-1985 he put the muster by 11.00 p.m. and went to work as coal cutter for Machine No. 7 in the third shift only with an intention to create certain documentary proof as if accident occurred while on duty, that in fact that the workman got his left thumb severely cut before he put any muster, that by the above act the workman had deliberately tried to cheat the Company by reporting a non-mining and our side accident as a Mining accident to derive the benefits of full wages for the period of treatment and payment of compensation under the Workman's Compensation Act, and that the above act of the workman amounted to misconduct under Company's Standing Order 16(2). Further it is stated that MW-1 was appointed as an Enquiry Officer to conduct the enquiry against the workman in respect of the above charge sheet and that he conducted the enquiry and examined Management witnesses, that the workman S. Narasiah participated in the enquiry and that he gave fair opportunity to the workman to participate in the enquiry, that he also recorded the statement of the workman and that he completed the enquiry and prepared the enquiry proceedings marked as Ex. M-3 and that he submitted an enquiry report Ex. M-4 to the Management finding the workman S. Narasiah guilty of the charges levelled against him. Further it is stated that the Management has gone into the records and also past record in dismissing the workman S. Narasiah w.e.f. 9-1-1986 under dismissal order marked as Ex. M-5. Further it is stated that the Management filed M.P. No. 33/86 under Section 33(2)(b) of the I. D. Act for approval of the action of the Management in dismissing the workman S. Narasiah and this Tribunal also approved the action taken by the Management.

4. As seen from the above, there is a finding earlier in M.P. No. 33/86 to the effect that the domestic enquiry conducted against the workman is fair and proper. Further the evidence of the Enquiry Officer also establishes that he conducted the domestic enquiry as per the principles of natural justice and that he gave a full and fair opportunity to the workman and that the workman in fact participated in the domestic enquiry. Thus I see no infirmity in the domestic enquiry as well as the order of dismissal passed by the Management.

5. Accordingly an Award is passed holding that the action of the Management in dismissing the workman Solu Narasiah Coal Cutter, GDK 6 Incline, Area I Ramagundam Division from service w.e.f. 16-1-1986 is justified.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this the 21st day of September, 1989.

C. RAMI REDDY, Industrial Tribunal
[No. I-21012(29)/88-D.III (B)/D.IV (B)/IR (Coal-II)]

Appendix of Evidence

Witnesses Examined for the
Workmen :

NIL

Witnesses Examined for the
Management :

MW-1—J. Laxminarayana

Documents marked for the Workmen :

NIL

Documents marked for the Management :

Ex. M-1—Charge sheet dated 7-5-1985 issued to S. Narasiah by the Superintendent of Mines, GDK No. 6 Incline, S.C. Co. Ltd., Ramagundam Division.

Ex. M-2—Explanation dated 14-5-1985 to the charge sheet submitted by S. Narasiah to the Superintendent of Mines, GDK No. 6 Incline, Godavari Khani.

Ex. M-3—Enquiry Proceedings.

Ex. M-4—Enquiry report.

Ex. M-5—Dismissal order dated 9-1-1986 issued to S. Narasiah by the General Manager, S.C. Co. Ltd., Ramagundam-I.

नई दिल्ली, 11 अक्टूबर, 1989

का. आ० 2819.—औद्योगिक विवाद अधिनियम, 1948 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व मैसर्स नार्दन कोलफील्ड्स लिम. की कागरी परियोजना में के प्रबन्धतंत्र से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-10-89 प्राप्त हुआ था।

New Delhi, the 11th October, 1983

S. O. 2819.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Kakri Project of M/s. Northern Coalfields Ltd. and their workmen, which was received by the Central Government on 6-10-89.

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
PANDU NAGAR, KANPUR

I.D. No. 66 of 1989

In the matter of dispute between :

Shri Rajesh Kumar Singh C/o Mahendra Pratap Singh,
Navin Gari Sarojini Nagar, Lucknow.

AND

The General Manager, Kakri Project, M/s. NC Lim.
Post. Bina, Distt. Mirzapur.

AWARD

1. The Central Government, Ministry of Labour vide its notification No. L-22012/139/8-D.4(B) dated 13th March

1989, has made the following reference for adjudication to this Tribunal :

Whether the action of the General Manager Kakri Project of M/s. Northern Coalfields Ltd., P. O. Buria, Distt. Mirzapur, in dismissing Shri Rajesh Kumar Singh, Driver, Cat-V, Kakri Project w.e.f. 9-12-87, is justified? If not, to what relief the workman concerned is entitled?

2. In the present case on 14-8-89, 6-9-89 was fixed for filing of affidavit evidence on behalf of the workman. On 6-9-89, Shri V. K. Gupta, authorised representative for the management appeared and Shri S. N. Tewari, appeared for the workman and moved an application for time to file affidavit evidence which was allowed and 26-9-89 was fixed in the case for filing of affidavit evidence.

3. On 26-9-89, Shri R. L. Gupta and Shri V. K. Gupta were present and none appeared from the side of the workman. No affidavit evidence was filed on his behalf. It appears that the workman is not interested in contesting the case, as such a no claim award is given in the case against the workman.

4. Reference is answered accordingly.

ARJAN DEV, Presiding Officer

[No. L-22012(139)/88-D.IV.B/IR(C.II)]

का. आ. 2820.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार व मैसर्स ईस्टर्न कोलफील्ड्स लि. की, खान्द्रा कोलियरी के प्रबन्धतंत्र से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-10-89 प्राप्त हुआ था।

S.O. 2820.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of Khandra Colliery of M/s. Eastern Coalfields Ltd. and their workmen, which was received by the Central Government on 9-10-89.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT CALCUTTA

Reference No. 4 of 1984

PARTIES :

Employers in relation to the management of Khandra Colliery of M/s. Eastern Coalfields Ltd., P.O. Ukhra, Burdwan).

AND

Their Workmen.

PRESENT :

Mr. Justice Sukumar Chakravarty, Presiding Officer.

APPEARANCES :

On behalf of employer—None.

On behalf of workmen—None.

STATE : West Bengal,

INDUSTRY : Coal.

AWARD

By Order No. L-19012/18/83-D.IV(B) dated 27th February, 1984, the Government of India, Ministry of Labour and Rehabilitation (Department of Labour) referred the following dispute to this Tribunal for adjudication :

"Whether the action of the Agent, Khandra Colliery of M/s. Eastern Coalfields Ltd., P. O. Ukhra (Burdwan) in not rectifying the date of birth of Shri Ram Chandra Nunia as 1-6-1938 on the basis of the Identity Card, is justified? If not, to what relief the workman is entitled and from what date?"

2. When the case is called out today, nobody appears from either side. The Joint petition of Compromise, duly signed by the parties, filed on 4th September, 1989 is taken up for consideration.

Considered the said Joint Petition of Compromise. The terms of the Joint Petition of Compromise appear to be fair, reasonable and in the interest of the parties. I therefore, accept the same and pass an 'Award' in terms of the said Joint Petition of Compromise which do form part of this Award as Annexure 'A'.

This is my Award.

Dated, Calcutta,

The 27th September, 1989.

SUKUMAR CHAKRAVARTY, Presiding Officer

[No. L-19012 (18)/83-D. IV. B/IR (C. II)]

ANNEXURE 'A'

Eastern Coalfields Limited, Bankola Area

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CALCUTTA

Ref. No. 4 of 1984

Employers in relation to the Management of Khandra Colliery of M/s. P.C. Ltd., Bankola Area.

AND

Their workman (Ram Chandra Nunia).

Joint petition of compromise the humble joint petitioners hearing concerned most respectfully sweath.

- (1) That the above matter is pending for hearing in the Tribunal
- (2) That the parties mutually discussed the instant matter and have come to an amicable settlement of the dispute on the following terms.

TERMS OF SETTLEMENT

- (1) That Sri Ram Chandra Nunia designated as U.G. Loaders of NKJ Unit of Khandra Colliery has given the age dispute in the service excerpts form in 1987. As per the provision of implementation instruction No. 76 of JBCCI in N.C.W.A.-III (National Coal Wages Agreement-III) both the parties agreed for assessment of the age of Sri R. C. Nunia by the apex age determination committee.
- (2) It is agreed by both the parties that the findings of the Apex Committee will be binding on both the parties, as laid down in the I.I. No. 76.
- (3) That by this settlement the instant matter arising out of age dispute of the workman and any matter incidental to or arising out of instant matter are fully and finally settled.

- (4) That both the parties pray, that the honourable tribunal may be pleased to accept the settlement as fair and proper and may be pleased to pass an award in terms of the settlement.

And for this act of kindness, both the parties as in duty bound shall ever pray.

By the workmen.

Witness :

R. C. Nunia.

1. Sd/- Baidya Nath Banerjee

Sd/- Agent

For and on behalf of the Employer

For Khandra Colliery

का. आ. 2821—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण से केन्द्रीय सरकार व भारतीय खाद्य निगम के प्रबन्धत्व से संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-10-89 प्राप्त हुआ था।

S. O. 2821.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the industrial dispute between the employers in relation to the management of Food Corporation of India and their workmen, which was received by the Central Government on 6-10-89.

BEFORE SHRI G. S. KALRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NEW DELHI

I.D. No. 33/85

In the matter of dispute between:

Shri Gian Chand represented through FCI, Class IV Employee Union.

Versus

Management of Food Corporation of India represented through Zonal Manager, Ansal Bhawan, K.G. Marg, New Delhi.

APPEARANCES:

Shri Heera Lal—for the workman.

Shri Anil Kapoor—for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. I-42012(38)/84-D.V dated 25th July, 1985 has referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the management of Food Corporation of India in not considering Shri Gian Chand for employment subsequent to his termination on 11-10-1983 is justified? If not to what relief he is entitled for?"

2. On behalf of the workman statement of claim has been filed by the General Secretary of the Food Corporation of India Class IV Employee Union. It has been stated therein that Shri Gian Chand workman was engaged in the Zonal Office (North), as Casual Messenger on the D.C. approved rates w.e.f. June, 1982 and worked upto 10-10-1983. All of a sudden his services were terminated by the Management in breach of provisions of Section 25-F and 25-G of the

I.D. Act. The workman was neither served with any charge sheet nor he was found guilty of misconduct. The Management regularised the services of Shri Suresh Chand and Jai Pal who were junior to him and has violated the provisions of section 25-G of the I.D. Act. It has further been stated that the workman has completed 240 days within a calendar year within the meaning of section 25-B of the I.D. Act. It has further been stated that the Management has got tendency to engage Casual Workers against post of regular nature with sole object to deprive the workman from right of regularisation of service which amounts to unfair labour practice. Hence it was prayed that the workman be reinstated with continuity of service and back wages.

3. The Management in its written statement raised the preliminary objection that the allegations made in the statement of claim relate to the breach of the provisions of sections 25-F and 25-G which is beyond the scope of the terms of reference as the reference is confined to the question of non-consideration of the candidature of the workman subsequent to his termination. On merits it was submitted that the workman was engaged to undertake miscellaneous work such as shifting of stationery items and water-mans work and not for the job which is being performed by the regular Messengers. The provisions of sections 25-F and 25-G were not violated. The workman had not completed 240 days in the calendar year preceding his disengagement and the relevant documents were personally verified by the ALC(C) Shri K. C. Luke on 13-8-84 and the claim of the workman could not be substantiated. The workman was engaged on casual basis as a casual labour and was paid as per the rate fixed by the Delhi Administration. He was not re-engaged during the summer season as his candidature was not sponsored by the Employment Exchange alongwith the labourers who were engaged during the year 1984-85. Reference was made to the provisions of Employment Exchange (Compulsory Notification of vacancies) Act, according to which category III and IV employees whether regular or on daily wages could be appointed only from amongst the candidates sponsored by the Employment Exchange. As Gian Chand workman was not sponsored by the Employment Exchange he could not be re-engaged in violation of statutory provisions of Employment Exchange (C.N.V.) Act. Hence there is also no violation on the part of the Management of the provisions of section 25-H of the I.D. Act.

4. I find considerable merit in the preliminary objection raised by the Management. It is clear from the terms of reference that this Tribunal had been called upon to adjudicate whether there has been any violation of the provisions of section 25-H of the I.D. Act. However, in the statement of claim there is no allegation at all regarding the violation of the provisions of section 25-H of the I.D. Act and the entire pleadings relate to the violation of the provisions of sections 25-F and 25-G which are not covered by the terms of reference. It is not within the jurisdiction of this Tribunal to adjudicate upon these violation because this Tribunal cannot enlarge the scope of the reference. As the workman has not made any allegation of violation of section 25-H in his statement of claim, the whole of the proceedings in this case are rendered infructuous. Moreover, the management has stated that the workman could not be considered for reengagement because his candidature was not sponsored by the Employment Exchange and to have re-engaged him without sponsorship from the Employment Exchange would have amounted to the violation of the provisions of the Employment Exchange Compulsory Notification of Vacancies Act. It has not been asserted by the workman that his candidature was sponsored by the Employment Exchange and or that the workman engaged as casual labour after his termination were so sponsored. Sponsorship by Employment Exchange for public employment is a good policy and provides equal opportunity to all the citizens of the country and is in conformity with the equality provisions of the constitution. Moreover, the workman has also failed to prove that he had completed 240 days of work in the 12 calendar months preceding his disengagement. As attendance register placed on record shows that he had put in only 223 days of work during the period of his employment from November, 1982 to October, 1983.

5. In view of the discussion made above the workman has not been able to prove his claim and he is not entitled to any relief and this reference is disposed of accordingly.

28th September, 1989.

G. S. KALRA, Presiding Officer
[No. L-42012(38)/84-O.V/IR(C.II)]

का. आ. 2822:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार व भारत कोकिंग कोल लि., रोपवेज डिविजन के प्रबन्धनत्व में संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्विष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कलकत्ता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-10-89 प्राप्त को हुआ था।

S.O. 2822.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of Ropeways Division of M/s. Bharat Coking Coal Ltd. and their workmen which was received by the Central Government on 4-10-89.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 20 of 1988

PARTIES:

Employers in relation to the management of Ropeways
Division of M/s. Bharat Coking Coal Limited

AND

Their Workmen.

PRESENT:

Mr. Justice Sukumar Chakravarty, Presiding Officer.

APPEARANCES:

On behalf of employer—Mr. B. N. Prasad, Advocate.

On behalf of workmen—Mr. D. K. Mukherjee, General Secretary of the Union.

STATE : West Bngal.

INDUSTRY : Coal.

AWARD

By Order No. L-19012(75)/86-D.IV(B) dated 2nd March, 1987, the Government of India, Ministry of Labour referred the following dispute to this Tribunal for adjudication:

"Whether the action of the General Manager (Ropeways) M/s. Bharat Coking Coal Limited in terminating the services of S/Shri Brindaban Majee and N. K. Pramanik, Boatman w.e.f. 18-10-85 is justified? If not, to what relief the workmen are entitled?"

2. When the case is called out today, both parties appear and file a Joint Petition of Compromise, duly signed by both parties. They pray for an award in terms of the Joint Petition of Compromise. Considered the said Joint Petition of Compromise as well as their submission. The terms of the Joint Petition of Compromise appear to be

fair, reasonable and in the interest of the parties. I therefore, accept the same and pass an 'Award' in terms of the said Joint Petition of Compromise which do form part of this Award as Annexure 'A'.

This is my Award.

Dated, Calcutta,

The 26th September, 1989.

SUKUMAR CHAKRAVARTY, Presiding Officer
[No. L-19012(75)/86-D.IV.B/IR(C-II)]

ANNEXURE 'A'

BEFORE THE PRESIDING OFFICER, CENTRAL GOVT.
INDUSTRIAL TRIBUNAL, CALCUTTA

Reference No. 20/88

PARTIES:

Employers in relation to the Management of Ropeways
of M/s. Bharat Coking Coal Limited.

AND

Their Workmen.

Joint Compromise Petition:

The parties named above most respectfully beg to submit as under:—

(1) That the Ministry of Labour Government of India, New Delhi vide letter No. L-19012(75)/86-D. IV (B) dated 2nd March, 1987 has referred the above matter to this Hon'ble Tribunal for adjudication with the following Schedule.—

"Whether the action of the General Manager (Ropeways), M/s. Bharat Coking Coal Limited in terminating the services of S/Shri Brindaban Majee and N. K. Pramanik, Boatman w.e.f. 18-10-1985 is justified? If not to what relief the workmen are entitled?"

(2) That while the matter is pending before the Hon'ble Tribunal the parties have negotiated and discussed this dispute with a view to arrive at a mutually agreed settlement;

(3) That as a result of the negotiation and discussion the parties have agreed to settle this matter mutually on the following terms and conditions:—

(a) With observance of normal procedure of BCCL, with regard to recruitment, the two persons namely Sri Brindaban Majee and Sri N. K. Pramanik will be taken on the rolls of the Company i.e. M/s. B.C.C.Ltd. (R) as regular employees and given employment as General Mazdoors in Cat. 1 of the National Coal Wage Agreement No. IV w.e.f. 1st October, 1989;

(b) That they shall be treated as fresh employees of the Company and they will not be entitled for any wages for the back period;

(c) That as a gesture of goodwill S/Sri Brindaban Majee and N. K. Pramanik will be paid a lump sum amount of Rs. 500 (Five hundred) each;

(d) They will be duly identified and certified to be the right persons by the Union i.e. Central Ropeways Employees Union;

(4) That the parties consider and confirm that the above terms of the settlement are reasonable, just and fair to both the parties.

PRAYER:

In view of the above the parties jointly pray that the Hon'ble Tribunal may be gracies enough to accept this settlement and to give the award in terms of thereof.

Sd/- General Manager (Ropeways)

M/s. B.C.C. Ltd.

For and on behalf of the employers.

(1) Sd/- General Secretary,

Central Ropeways Employees Union

Sd/-

(2) Sri Brindaban Majee

Sd/-

(3) Sri N. K. Pramanik

Sd/-

Advocate for the Employers

Witnesses:

(1) Sd/- Illegible

(2) Sd/- Illegible

का. ओ. 2823:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व मैसर्स ईस्टर्न कोलफील्ड्स लि. की खास काजोरा कोलियरी के प्रबन्धतंत्र से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-10-89 को प्राप्त हुआ था।

S.O. 2823.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of Khas Kajora Colliery of M/s. Eastern Coalfields Ltd. and their workmen, which was received by the Central Government on 9-10-89.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 18 of 1986

PARTIES:

Employers in relation to the management of Khas Kajora Colliery of M/s. Eastern Coalfields Limited.

AND

Their Workmen.

PRESENT:

Mr. Justice Sukumar Chakravarty—Presiding Officer.

APPEARANCES:

On behalf of employer: Mr. P. Banerjee, Advocate with Mr. S. K. Pandey, Deputy Personnel Manager of the Colliery.

On behalf of workmen: Mr. S. Ganguly, Advocate.

STATE: West Bengal.

INDUSTRY: Coal.

AWARD

By Order No. L-19012(48)/85-D.IV(B) dated 31-1-1986, the Government of India Ministry of Labour, referred the following dispute to this Tribunal for adjudication:

"Whether the Management of Khas Kajora Colliery of M/s. Eastern Coalfields Limited, P.O. Kajoram, District Burdwan (WB) is justified in dismissing Shri Laxmi Nunia, Loading Peon, from service w.e.f. 20-10-83? If not, to what relief the workman concerned is entitled?"

2. The case as made out in the written statement and rejoinder of the Union sponsoring the cause of the concerned workman Laxmi Nunia, is briefly as follows: The management of the concerned colliery issued the charge-sheet on 4-4-1983 on the concerned workman for three counts of malicious charges viz. (i) on 30-3-1983 at about 8.10 A.M. the workman assaulted Dr. Bakshi, Senior Medical Officer at the gate of his residence; (ii) on the same date at about 9.30 A.M. the workman trespassed into the Agent's quarter and abused the Agent and the members of his family and threatened to kill him; (iii) on the same date at about 9 A.M. the workman participated in the violent mob-action in the office of the Agent. The said charges were framed not in accordance with the Model Standing Orders and they were not proved beyond doubt before the Enquiry Officer who held the domestic enquiry against the concerned workman on the said charges. The concerned workman was not present at the alleged time and place of the occurrence. The Enquiry Officer however found the concerned workman guilty of the charges of assaulting Dr. Bakshi and trespassing into the Agent's quarter against the evidence. The Disciplinary Authority mechanically accepted the said report of the Enquiry Officer and dismissed the concerned workman from service with effect from 20-10-1983 without properly assessing the gravity of the charges and the circumstances in which the concerned workman was made to be involved. The extreme punishment of dismissal from service was not commensurate with the alleged misconduct it held to be proved for the sake of argument. The cause of the dismissed workman was taken up by the union and their approach to the Conciliation Officer for conciliation ended in failure resulting in the present reference.

3. The case as made out by the Management in their written statement is briefly as follows: The Union sponsoring the cause of the concerned workman has no locus standi as the Union has no substantial workmen of the colliery as its members. The concerned workman was chargesheeted for the charges levelled against him and the Enquiry Officer held the domestic enquiry on the charges against the concerned workman following the principle of natural justice and giving all reasonable opportunity of self-defence to the concerned workman. The Enquiry Officer submitted the report finding the concerned workman guilty of the charges of assault and trespass. The Management on due consideration of the materials in the enquiry proceedings accepted the report of the Enquiry Officer and dismissed the concerned workman from service, in view of the gravity of the misconduct of the concerned workman.

4. In a reference of this nature arising out of the dismissal of the concerned workman on the basis of the domestic enquiry, this Tribunal first heard the preliminary issue with regard to the validity or otherwise of the domestic enquiry and by its order dated 20-12-1988, the Tribunal found that the domestic enquiry held by the Enquiry Officer against the concerned workman was valid. The case has been subsequently heard on merit.

5. Entire proceedings of the domestic enquiry is Ext. M-1 collectively which include the charge-sheet, evidence sheets and the report of the Enquiry Officer. It appears from the report of the Enquiry Officer that the Enquiry Officer found the delinquent workman Laxmi Nunia guilty of the charges of assaulting Dr. Bakshi and trespassing into the Agent's quarter but did not find him guilty of other counts of the charges

already mentioned while stating the facts. It has already been stated that the management accepted the report of the Enquiry Officer and dismissed the delinquent workman from service with effect from 20-10-1983.

6. It is the well settled principle of law that under section 11A of the Industrial Disputes Act, 1947, the industrial adjudicator has not only the jurisdiction to interfere with the findings of the Enquiry Officer on his own appraisal of the evidence, if he comes to a different conclusion than the one arrived at by the Enquiry Officer and then to set aside the order of dismissal or discharge of workman and direct the reinstatement but also the jurisdiction in exercising his discretion to mould that relief including the award of lesser punishment in lieu of discharge or dismissal as may be warranted by the circumstances of the case.

7. The management has examined a number of witnesses including Dr. Bakshi himself before the Enquiry Officer. The delinquent workman has also given his evidence before the Enquiry Officer and has examined some defence witnesses. The management has dismissed the concerned workman on the basis of the charge proved against him on consideration of the report of the Enquiry Officer with reference to the materials in the enquiry proceedings. This Tribunal is to see on appraisal of the evidence as given before the Enquiry Officer whether the evidence substantiates the findings of the Enquiry Officer as to be establishment of the charge of assault upon Dr. Bakshi and the trespass into the Agent's quarter.

8. Mr. Banerjee, the Learned Advocate for the management in his usual fairness has submitted that the charge of trespass into the Agent's quarter against the concerned workman has not been satisfactorily proved before the Enquiry Officer and that the report of the Enquiry Officer to that effect is not acceptable. Mr. Banerjee has further submitted that the management has also not been justified in accepting the report of the Enquiry Officer with regard to the said charge of trespass.

9. In the Model Standing Orders which governs the establishment of the colliery in question does not show that mere trespass is a misconduct on the part of any workman. Be that as it may, on due consideration of the materials in the record, I agree with Mr. Banerjee that the concerned workman cannot be held liable for the misconduct in the form of mere trespass as reported by the Enquiry Officer.

10. In view of what has been stated above, this Tribunal is now required to see on appraisal of the evidence whether the evidence substantiates the charge of assault upon Dr. Bakshi by the concerned workman which is undoubtedly a misconduct in accordance with the Model Standing Orders. It is the definite case of the union in the written statement that the concerned workman Laxmi Nunia was not present in the mob which went to the gate of the quarter of Dr. Bakshi at about 8 A.M. on 30-3-1983 and that Laxmi Nunia had no occasion to assault Dr. Bakshi. Laxmi Nunia in his evidence before the Enquiry Officer has also stated that he came to the colliery on the date of occurrence at 9 A.M. and that he was in his quarter at distance of half a mile from the colliery at about 8.10 A.M. Laxmi Nunia has further stated in his evidence that on 30-3-1983 he came to the colliery siding at about 9 A.M. and that thereafter he went away to Kajora Station and that he came back to the colliery siding at about 11 A.M. and heard about the death of the wife of Bangali Nunia and that he was not amongst the mob. Bangali Nunia, whose wife died on the date of occurrence has stated in his evidence that the concerned workman Laxmi Nunia was in his quarter at 8 A.M. to 8.15 A.M. Bangali Nunia is the witness on the side of the concerned workman. His evidence contradicts the statement of the concerned workman Laxmi Nunia when he says that Laxmi Nunia was in his quarter at 8.10 A.M. on the date of occurrence. In view of such discrepancy it could not be accepted that Laxmi Nunia was in his quarter at about 8.10 A.M. on the date of occurrence. This however by itself does not prove the management's case that the concerned workman Laxmi Nunia was in the mob in front of the quarter of Dr. Bakshi at 8.10 A.M. on the date of occurrence and that Laxmi Nunia assaulted Dr. Bakshi unless the management's witnesses have satisfactorily proved the same.

11. Dr. Bakshi has stated in his evidence that the delinquent workman Laxmi Nunia and Ram Charitar Nunia were in the front of the mob of about 40 to 50 persons who assembled near the gate of his quarter and that when he came out of his quarter for going to the hospital and reached the front of the gate, the delinquent workman Laxmi Nunia and Ram Charitar Nunia caught hold of the collar of his shirt and started assaulting him with fists and blows alongwith others and that some of them also used lathi to press on his abdomen. It transpires from his evidence that Dr. Bakshi could not identify the other assailants, but he could identify Laxmi Nunia and Ram Charitar Nunia. In this particular reference this Tribunal is concerned with the delinquent workman Laxmi Nunia. So I shall give my finding about this workman only on due consideration of the evidence and materials in the record.

12. Dr. Bakshi has stated in his evidence that he could recognise the concerned workman Laxmi Nunia and Ram Charitar Nunia as they were in front of the mob and as they caught hold of his collar and started beating him. As regards the case of Ram Charitar Nunia who is admittedly the vice president of the local unit of Colliery Mazdoor Congress, Bengal Hotel, 2 Md. Hussain Street, Asansol-713301 he was involved in the Reference No. 43 of 1984 which was disposed of by this Tribunal by making the award on 20-9-83. In that award the Tribunal found that the action of the management in dismissing Ram Charitar Nunia was not unjustified, regard being had to the facts and circumstances of the case in the said reference. Laxmi Nunia, the concerned workman in the reference under consideration is undisputedly a member of the Colliery Mazdoor Congress, Gorai Mansion, G. I. Road, Asansol-1. Be that as it may, it appears that the death of the wife of Bangali Nunia made the workmen of the colliery agitated and enraged against the management officials including Dr. Bakshi. The evidence of Dr. Bakshi shows that Bangali Nunia alongwith Ram Charitar Nunia and some others came to Dr. Bakshi's quarter at about 1 A.M. in the night of 30-3-1983 and that Ram Charitar Nunia obtained the signature of Dr. Bakshi on the requisition form for removal of the wife of Bangali Nunia to Chora Hospital as the wife of Bangali Nunia was suffering from labour pain from 9 P.M. in the night of 29-3-1983. Dr. Bakshi's evidence does not however disclose that Laxmi Nunia was alongwith them in that night. The evidence of Dr. Bakshi further shows that he could not make the arrangement of conveyance for taking the wife of Bangali Nunia to Chora Hospital as the hospital ambulance was out of order and as the vehicle hired for the purpose left the hospital at about 8 P.M. on 29-3-83. Dr. Bakshi's evidence further discloses that it was arranged that the company's other vehicle would be made available in case of urgency in any hospital matter and that Dr. Bakshi advised Ram Charitar Nunia and Bangali Nunia to approach the Manager/Agent for getting the company's vehicle. The evidence of Dr. Bakshi further shows that they could not get the company's vehicle and that they were advised by the doctor to take the patient immediately by hiring any taxi or any other outside vehicle. The evidence as given by the defence witnesses and the materials in the record show that the wife of Bangali Nunia was found dead after she was taken to the Chora Hospital. The facts and circumstances disclosed in the proceedings go to show that first of all Bangali Nunia made delay in reporting the matter of his wife to Dr. Bakshi as the labour pain of his wife started at 9 P.M. itself on 29-3-1983 and that they came to Dr. Bakshi at 1 A.M. in the night. Although Dr. Bakshi made his service available to them at such dead hour of night still it appears from the materials in the record that Dr. Bakshi and the other management officials could not make the company's vehicle available to the escort of the patient for taking the patient to the Chora Hospital, thereby showing the negligence on the part of the management officials including Dr. Bakshi. The death of the wife of Bangali Nunia in such circumstances before getting proper treatment in the hospital would naturally raised commotion amongst the workmen of the colliery and might enrage them against the management officials including Dr. Bakshi himself.

13. Now the question is whether the agitated mob because of the death of the wife of Bangali Nunia could be encouraged and allowed to assault Dr. Bakshi because of the unfortunate

death of the wife of Bangali Nunia and whether Laxmi Nunia as a participant of the said mob assaulted Dr. Bakshi at the alleged time and place on the date of occurrence. It has already been stated while discussing the evidence of Dr. Bakshi that Dr. Bakshi recognised Laxmi Nunia as one of the assailants as he alongwith Ram Charitar Nunia was in front of the mob and both of them caught hold of the collar of the shirt of Dr. Bakshi and started beating him with fists and blows. The evidence of Mr. S. S. Lahiri, Deputy Finance Manager has shown that after hearing the hue and cry from his own quarter, he came to the place of the hue and cry which was near the gate of the quarter of Dr. Bakshi and found that a good number of persons of the mob were assaulting Dr. Bakshi and that he rescued him and advised him to go the Agent's office room for shelter. So the evidence of Mr. Lahiri proves the assault upon Dr. Bakshi at the alleged time and place on the date of occurrence, although he has not stated in his evidence that he recognised Laxmi Nunia as one of the assailants.

14. The Manager Mr. A. K. Chowdhury in his evidence has stated that he heard from Dr. Bakshi himself about the assault upon him near the gate of his quarter. His evidence however does not show that Dr. Bakshi named the assailants before him. The evidence of the Agent H. Prosad shows that he heard from the Manager A. K. Chowdhury over the phone about the assault upon Dr. Bakshi immediately after the incident. Mr. Prosad's evidence further shows that at about 8.30 A.M. on the date of occurrence, the mob trespassed into his quarter and in the said mob he saw Laxmi Nunia. I have already shown that Laxmi Nunia's evidence with regard to his presence in his own quarter at the time of the occurrence could not be believed.

15. In view of what has been discussed above and on due consideration of the materials in the record, I find that the management has succeeded in establishing the charge of assault upon Dr. Bakshi by Laxmi Nunia and Ram Charitar Nunia. I, therefore, find that the evidence substantiates the findings of the Enquiry Officer to the effect that Laxmi Nunia also assaulted Dr. Bakshi at the alleged time and place on the date of occurrence.

16. Mr. Ganguly the Learned Advocate appearing for the concerned workman has not made any submission with regard to the merit itself of the findings of the Enquiry Officer on the basis of the materials in the enquiry proceedings but he has challenged the dismissal of the concerned workman on the grounds that the disciplinary authority while accepting the report of the Enquiry Officer passed a perfunctory order and illegally dismissed the concerned workman without issuing the second show cause notice about the proposed punishment. It appears from the dismissal order Ext. M-1/D that the disciplinary authority on due consideration of the report of the Enquiry Officer with reference to the entire enquiry proceedings, accepted the report of the Enquiry Officer and then imposed the punishment. Such being the position, it cannot be said that the order of the disciplinary authority while accepting the report of the Enquiry Officer was perfunctory. The Model Standing Orders which govern the establishment and the workmen thereof, do not require that the second show cause notice for the proposed punishment was to be issued. So the aforesaid objections as raised by Mr. Ganguly are not tenable.

17. Mr. Ganguly has further submitted that there is no corroboration to the evidence of Dr. Bakshi as to the assault upon him by producing any medical report or by giving any other corroborative evidence. It is true that the management has not produced any medical report showing that Dr. Bakshi had any mark of injury as a result of assault upon him. Dr. Bakshi has not stated in his evidence that he sustained any visible injury as a result of the assault upon him. It may be that Dr. Bakshi did not get himself medically examined in such circumstances and get any medical report in this respect. It is true that no other management's witness excepting Dr. Bakshi, the victim of assault, has come to say that he saw Laxmi Nunia assaulting Dr. Bakshi. The facts and circumstances and the evidence as already discussed above, have however shown that there is corroborative evidence about

the assault upon Dr. Bakshi and about the presence of the concerned workman in the mob which came to assault Dr. Bakshi. Be that as it may, I have already stated on due consideration of the materials in the record that the materials in the record have established the assault upon Dr. Bakshi by the concerned workman Laxmi Nunia at the alleged time and place on the date of occurrence.

18. Now the question comes in whether the management has been justified in dismissing the concerned workman from service. I have already stated that the materials in the record have shown the negligence on the part of the management officials including Dr. Bakshi in quick removal to Chora Hospital in respect of the wife of Bangali Nunia who was suffering from labour pain from 9 P.M. in the night. It has already been shown also that such negligence might have raised commotion amongst the workmen who might have been agitated and enraged against the management-officials including Dr. Bakshi. The death of the wife of Bangali Nunia is no doubt unfortunate and pitiable. The negligence on the part of the management officials including Dr. Bakshi as disclosed from the materials in the record, is no doubt reprehensible and undoubtedly caused commotion amongst the workmen. In such a position proper guidance and advice of the leader of the union was required. It has already been found that Ram Charitar Nunia, the vice president of his union at the relevant time led the mob along with Laxmi Nunia and came to the gate of Dr. Bakshi's quarter at 8.10 A.M. on 30-3-1983. The wife of Bangali Nunia died on her way to the hospital and was declared dead in Chora Hospital at 5 A.M. of 30-3-1983. The mob assembled near the gate of Dr. Bakshi at 8.10 A.M. thereby showing that the mob came there with a premeditated plan to assault Dr. Bakshi. The workmen who got agitated at the unfortunate death of the wife of Bangali Nunia could have taken steps for bringing to book the management-officials including Dr. Bakshi for their negligence by approaching the higher authority of the colliery and for getting reasonable compensation for the unfortunate death of the wife of Bangali Nunia but the commotion and agitation of the mob were channelised in a wrong way for assaulting Dr. Bakshi. This cannot be allowed and encouraged in any establishment to the breach of administrative discipline resulting in chaos and other serious danger in the establishment. So the concerned workman Laxmi Nunia deserves some punishment for the misconduct proved against him.

19. In the Reference No. 43 of 1984 this Tribunal did not interfere with the punishment of dismissal as imposed upon Ram Charitar Nunia by the management as Ram Charitar Nunia led the mob as the vice president of the local unit of the union and assaulted Dr. Bakshi. In the instant case Laxmi Nunia is not the office bearer of any union. He is merely a workman. The evidence has established that Laxmi Nunia was in the mob and that he was one of the assailants. If the vice president of one union who led the agitated mob became the assailant then the other workmen in the said mob might follow the action of that union leader. It appears that Laxmi Nunia as a ordinary workman participated in the mob and also followed the action of Ram Charitar Nunia by assaulting Dr. Bakshi. In such circumstances the extreme punishment of dismissal upon Laxmi Nunia might be against the justice and in the facts and circumstances of the case, some lesser punishment may meet the ends of justice. The suspension of Laxmi Nunia for 10 days without any pay and stoppage of his increment for seven years, I think, will meet the ends of justice.

20. As regards the point that the Union has no locus standi, as pleaded by the Management in their written statement, the Management has not given any evidence. The said point accordingly falls through.

21. In the result the punishment of dismissal upon the concerned workman Laxmi Nunia is set aside and he shall be treated as suspended for 10 days without pay and his increment in the scale of pay be stopped for seven years by way of punishment. The concerned workman Laxmi Nunia be reinstated to his service with all back wages and conse-

quential relief subject to the aforesaid punishment. If however he is found to be employed for any particular period in between the date of his dismissal and the date of reinstatement, the back wages for such period shall not be paid to the concerned workman.

This is my Award.

Dated, Calcutta,
The 27th September, 1989.

SUKUMAR CHAKRAVARTY, Presiding Officer
[No. L-19012(48)/85-D.IV.B/IR (C.II)]

नई दिल्ली, 16 अक्टूबर, 1989

का.आ. 2824:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व भारतीय खाद्य निगम, गोरखपुर के प्रबन्धतंत्र से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9 अक्टूबर, 1989 को प्राप्त हुआ था।

New Delhi, the 16th October, 1989

S.O. 2824.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Food Corporation of India, Gorakhpur and their workmen, which was received by the Central Government on 9-10-89.

ANNEXURE

BEFORE SHI ARJAN DEV, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL CUM LABOUR COURT, PANDU NAGAR, KANPUR

I.D. No. 66 of 88

In the matter of dispute between :

The President,
Bhartiya Khadya Nigam Mazdoor Sangh,
1-Abdul Aziz Lane,
Lucknow.

AND

The District Manager,
Food Corporation of India,
Chandra Niketan,
Betia Hata,
Gorakhpur.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-42012/94/87-D.II(B) dt. 10-5-1988, has referred the following dispute for adjudication to this Tribunal :

Whether the action of the District Manager, Food Corporation of India, Gorakhpur, in terminating the services of Shri Mansoor Ali, Watchman, w.e.f. 28-2-86, is legal & justified ? If not to what relief the concerned workman is entitled to ?

2. In the instant case on 8-6-89, the workman filed affidavit evidence and the case was ordered to come up on 23-6-89 for cross examination of the workman. On 23-6-89 for cross examination of the workman. On 23-6-89, Shri M. Shakeel appeared on behalf of the workman and moved an

application for summoning of documents from the management which was allowed and 4-8-89, was fixed for producing the documents mentioned in the workman's application dt. 23-6-89 and for cross of the workman as well. On 4-8-89, at Camp Lucknow, the case was taken up and Shri V. K. Gupta, appeared on behalf of the management, but none appeared from the side of the workman. Shri Gupta, on behalf of the management filed 3 documents alongwith management's affidavit evidence.

3. On 4-8-89, neither the workman appeared for his cross examination nor any application seeking adjournment was moved on his behalf. However, in the interest of justice the case was adjourned to 22-9-89 for cross examination of the workman at Kanpur.

4. On 22-9-89, Shri V. K. Gupta, appeared for the management and neither the workman nor his authorised representative appeared in the case. No application has been moved on behalf of the workman. Thus it appears that the workman is not interested in prosecuting the case.

5. In the circumstances of the case, a no claim award is given against the workman.

ARJAN DEV, Presiding Officer
[No. L-42012(94)/87-D.IIB/IR(C.II)]

R. K. GUPTA, Desk Officer

नई दिल्ली, 9 अक्टूबर, 1989

का.आ. 2825:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निविदा औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 09-10-89 को प्राप्त हुआ था।

New Delhi, the 9th October, 1989

S.O. 2825.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby published the following award of the Central Government Industrial Tribunal-cum-Labour Court, Kanpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on 9-10-89.

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 25 of 1987

In the matter of dispute between :

The Chief Regional Manager,
State Bank of India,
Regional Office,
The Mall, Kanpur.

AND

Shri Lallan
C/o The President,
UPBEC, 121, Alopibagh,
Allahabad.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-12012/293/85-D. II(A), dated 30-1-1987,

has made the following reference for adjudication to this Tribunal :

Whether the action of the management of State Bank of India in relation to their main branch Allahabad and Colonelganj Branch, Allahabad in terminating the services of S/Shri Lallan (Messenger) and Ram Singhasan Rai (Tem. Guard/ Messenger) w.e.f. 20-3-83 and 1-7-85 respectively while recruiting fresh hands under sec. 25H I.D. Act is justified and legal? If not, to what relief is the concerned workmen entitled?"

2. The two workmen, namely, S/Shri Lallan and Ram Singhasan Rai have filed separate claim statements in support of their respective cases. The case set up by Shri Lallan is that he was appointed as temporary messenger by State Bank of India at its Allahabad Main Branch on 9-4-75 and he had worked intermittently for a total number of 768 days from 1975 to 15-2-83. Thereafter, in the month of April, 1983, the management re-employed him on daily wage of Rs. 10, through a contractor who used to supply labour to the bank for performing messengerial work/duties. From 1-4-83 to 31-1-85, he worked as messenger continuously. His services were abruptly terminated by the management on 31-1-85. He has, therefore, prayed that having worked for more than 240 days during the period 1-4-83 to 31-1-85 he has become entitled to permanent employment in the Bank. He has, therefore, prayed that he be reinstated in bank's service with full back wages and further difference of wages with interest be ordered to be paid to him.

3. Shri Ram Singhasan Rai in his claim statement has alleged that he was appointed by State Bank of India as Temporary Messenger-cum-Watchman in 1974, and during the period 1974 to 30-5-85, he had worked for 3812 days as detailed in para 2 of the claim statement. During the course of his employment he was never given facilities as were available to other permanent workmen of the bank of his cadre. Being fed up with the discriminatory behaviour at the hands of the management he moved for his absorption as permanent employee of the bank. On his representation he was forced to appear before an Interview Board repeatedly for becoming a permanent employee of the Bank. On 1st July 1985, all of a sudden, his services were terminated by the Manager, Colonelganj Branch, Allahabad, of the bank. He alleges that his appointing authority was never the Branch Manager of the Colonelganj Branch of the bank. The power of appointment in fact vested in Chief General Manager, Lucknow Circle. Therefore, the order of his termination is void abinitio. Having put in 240 days of working each year during the period of his employment, he had attained the status of a permanent employee. The management is guilty of unfair labour practice. He has, therefore, prayed that he be reinstated in service with full back wages and continuity of service.

4. In respect of Shri Lallan, the management plead that during the period 1-5-75 to 19-3-83, he had worked only for 108 days. The management deny that during the period 1-4-83 to 31-1-85 he worked as a messenger continuously. The management further plead that the management of Contract Labour is permitted under law: it is requested by the provisions of Contract Labour (Regulation & Abolition) Act, 1970. Several other pleas have also been raised by the management but I need not refer to them as the workman has led no evidence in support of his case.

5. With regard to Shri Ram Singhasan Rai, the management almost admit that the workman had worked for number of days alleged each year right from 1974 to 1985 with a little variation. The main plea of the management is that the workman obtained employment by producing a false character certificate at the time of seeking appointment. Throughout he had worked as Badli Guard. On 30-2-84, when he was called for interview it transpired on inquiry that he had been court martialled while he was in Military Service. Therefore, his appointment was void abinitio.

6. Despite several opportunities afforded to the workmen they did not file any rejoinder nor filed any affidavit evidence in support of their respective cases. On the other hand, in

support of their defence, the management filed the affidavits of S/Shri Umesh Guha and Shri S. P. Srivastava, officers of the bank. The management have filed the photostat copy of the reply received by the bank from the Military Authority from which it appears that Shri Ram Singhasan Rai was tried by General Court Martial under section 69 of the Army Act and was awarded the punishment of reduction in rank and RI for 3 years in Civil Jail w.e.f. 27-11-70. He was also dismissed from Army Service w.e.f. 27-11-70. Thus if this fact that he had been punished by Military Authorities had been brought to the notice of the bank, the bank would not have taken him in service. The service having been obtained fraudulently, his initial appointment becomes void abinitio. He cannot be granted any relief.

7. Hence, having failed to support their case, the two workmen cannot be held entitled to any relief.

8. Reference is answered accordingly against them.

Dated : 29-9-89.

ARIJAN DEV, Presiding Officer

[No. L-12012/293/85-D.II(A)]

नई दिल्ली, 12 अक्टूबर, 1989

का.आ. 2826:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में केन्द्रीय सरकार भारतीय स्टेट बैंक, मद्रास के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अतिक्रमण, तमिलनाडु, मद्रास के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-10-89 को प्राप्त हुआ था।

New Delhi, the 12th October, 1989

S.O. 2826.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the following award of the Industrial Tribunal, Tamil Nadu, Madras-104 as shown in the Annexure in the industrial dispute between the employers in relation to the management of State Bank of India, Madras and their workmen, which was received by the Central Government on 11th October, 1989.

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU, MADRAS-104

Friday, the 15th day of September, 1989

PRESENT :

Thiru K. Natarajan, M.A., B.L., Industrial Tribunal.

Industrial Dispute No. 95 of 87

(In the matter of dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workmen and the Management of State Bank of India, Madras).

The workman represented by the General Secretary, State Bank Employees' Union, 157 Angappa Naicken Street, P.B. No. 1548, Madras-600001.

AND

The General Manager, State Bank of India, Local Head Office, Circle Top House, Madras.

REFERENCE :

Order No. L. 12012/642/86-D.II(A), dated 18th August, 1987 of Ministry of Labour, Government of India New Delhi.

This dispute coming on for final hearing upon perusing the reference, claim and counter statements and all other material papers on record and upon hearing the arguments of Thiru V. S. Ekambaram, Authorised Representative for the workman and of Tvl. R. Sreekrishnan, G. S. M. Sridhar and B. Raghavalu Naidu, Advocates for the Management and this dispute having stood over till this day for consideration, this Tribunal made the following.

AWARD

This dispute between the workmen and the Management of State Bank of India, Madras arises out of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India in its Order No. L-12012/642/86-D.II(A) dated 18th August, 1987 of the Ministry of Labour for adjudication of the following issue :

"Whether the action of the management of State Bank of India in relation to its Local Head Office, Madras in denying the special allowance carrying post of Head Messenger to Sri T. P. Asirvatham, Duffadar of Anna Salai Branch w.e.f. the date when Sri Thanickachalam the then Head Messenger at LHO was superannuated is justified? If not, to what relief the workmen is entitled to?"

2. The claim petition averments are that T. P. Asirvatham, member of the Petitioner-Union was appointed as a messenger on 19th April, 1947 at the then Madras Local Head Office of the Respondent-Bank. He continued to work as a messenger until he was given the incadre appointment as Duffadar, carrying special allowance in the year 1965 on the basis of service seniority of the messenger staff in the Madras city at the time of appointment. The Petitioner stated that in so far as the special allowance carrying posts like Duffry and Duffadar the number of posts as well as the criteria for eligibility of the messenger staff have been laid down by the Respondent-Bank. Similarly while special allowance carrying post of Head Messenger, the senior most employee among the messenger staff working in Madras City, where the LHO is situated alone is eligible to be appointed as Head Messenger. The Petitioner states in 1965-66 the Respondent Bank introduced a city-wise seniority, consisting of all offices in Madras City, including Local Head Office, as one zone for appointment of Duffadars and Head Messenger on the basis of service seniority of the messenger staff in that zone. The seniority scheme was followed by the Respondent-Bank in filling up the post of Head Messenger by promoting the senior most messenger available in the city zone namely C. S. Appakutty Pillai, A. Perumal and Thanickachalam, who were senior most messengers were appointed for the said post successfully whenever vacancies arose. T. P. Asirvatham, who is presently working as Duffadar at Anna Salai Branch, is the senior-most messenger in the zone became entitled to the special allowance carrying post of messenger by virtue of service seniority in that zone, when the Head Messenger Thanickachalam retired from service during March 1982. The Respondent Bank failed to adhere the scheme and the procedure followed in the matter of filling up of the special allowance carrying post of Head Messenger. The Respondent Bank failed to consider the written representations by T. P. Asirvatham during the years 1983, 1984, 1985 and 1986. Hence the Union raised this present dispute. The Petitioner submits that the Respondent Bank by violating the scheme and procedure has allowed a Messenger junior to T. P. Asirvatham on the ground that he is the senior-most Messenger working at the Local Head Office and also treating T. P. Asirvatham as disentitled on the ground that he is working at the another Head Office at Anna Salai. This appointment is not only illegal but also against the principles of natural justice. T. P. Asirvatham is eligible for the said post and the claim made by him since 1982 when Thanickachalam, the then Head Messenger at Local Head Messenger retired from service in March 1982 is proper and justified. Hence the present claim requesting the Tribunal to treat T. P. Asirvatham as Head Messenger effective from the date when Thanickachalam retired from service in the year 1982 with all attendant benefits.

3. The Respondent-Bank in its counter statement states that the dispute is not under the Industrial Disputes Act tried before the Tribunal. The Petitioner is not entitled to

be treated as Head Messenger. His claim through the Petitioner-Union is without any merit or legal sustainability. One Asirvatham since he is not eligible to claim the post of Head Messenger, which carries special allowance at the Local Head Office of the Respondent-Bank is not considered. As per the practice/procedure in vogue for a long time, the senior-most messenger posted at the Local Head Office of the Respondent-Bank is appointed for the post of messenger. As such there is only one such post in the circle and at the time of retirement of the earlier incumbent, one Shri Devan, who was the senior-most messenger at the Madras Local Head Office was appointed as Head Messenger. T. P. Asirvatham is not considered for the post as he was working at the establishment of Local Head Office of the Bank, then there is no violation of rules, procedure. The Respondent-Bank denies that it introduced city-wise seniority scheme consisting of all offices in Madras city including Local Head Office, as one zone for appointment of Duffadars and Head Messenger on the basis of service seniority of the messengers in the zone. The previous Head Messengers like Appakutty Pillai, Perumal and Thanickachalam were appointed in the said post of Head Messenger successfully since they were working at the Local Head Office and not any other branch of the Respondent Bank. Hence the claim may be dismissed.

4. The points for determination are (i) Whether the action of the management of the Respondent-Bank in relation to Local Head Office in denying special allowance post of Head Messenger to T. P. Asirvatham from the date of superannuation of Thanickachalam is justified? (ii) To what relief?

5. Ex. W-1 and W-2 were marked on behalf of the Petitioner-Union by consent. No document was marked on the side of the Respondent. No oral evidence was adduced on either side.

6. Point (i) Ex. W-1 is the xerox copy of the letter dated 28th March, 1966 written by the Assistant Labour Commissioner (C) to One K. R. Natarajan, Messenger, State Bank of India, Local Head Office by enclosing a letter i.e. Ex. W-2 and stating that further action can be taken in the matter with regard to the representation for appointment of Duffadars in the State Bank of India. Ex. W-2 is relied on by the Petitioner-Union to show that norm has been fixed in filling up the vacancies to the post of Duffadar by promoting the employees. Xerox copy of this letter written by the Dy. Secretary, State Bank of India, Madras-1 to the Assistant Labour Commissioner, Madras by way of reply wherein it is stated, representation over the appointment of Duffadars in Local Head Office, the procedure followed is that for the purpose of promotions to the post of Duffadars at the city offices including the Local Head Office, the seniority of messengers working at all the city offices as a whole should be taken into account instead of confining the promotion to the employees working at the office at which the vacancy has arisen. By referring this letter one K. R. Natarajan, Messenger was informed that he cannot be appointed for the post of Duffadar. Much reliance is placed on this account, Ex. W-2, by the Petitioner-Union and contended that a senior-most messenger in the city namely T. P. Asirvatham should have been considered for the post of Head Messenger rather than junior to Asirvatham. It is true. A look at Ex. W-2 shows that taking into consideration of the representation with regard to the appointment of Duffadars, it was decided to follow the procedure that promotion should be given to the employees working at the offices to the post of Duffadars at the city offices including Local Head Office as a whole. But on the other hand the learned counsel for the Respondent pointed out that this document relates to only for appointment of Duffadars and it is not applicable to the case of Head Messengers. According to him as per the practice and procedure in vogue for a long time the senior-most messenger is posted at the Local Head Office of the Respondent-Bank is appointed. The learned counsel for the Respondent-Bank is not able to produce any documents showing the procedure followed in the case of appointment of Head Messengers as contended by him. In paragraph 2 of W-2, it has been stated by the Respondent-Bank denying the fact that "a long-standing convention, a procedure sanctified by custom and continued practice for over a number of years, that higher appointments such as Duffadars, mochi and Head Messengers at the local head offices are appointed from and out of messenger staff working at Local Head Office." While the Bank has denied such a long standing convention 2931 GI/89—8.

in Ex. W-2, it is now contended in this case, the post of Head Messengers are filled up from senior most messengers working at Local Head Office. In consistent pleas have been taken and not supported by any evidence. I am unable to appreciate the argument of the learned counsel for the Respondent that in respect of Head Messenger, only the senior-most Messenger staff working at Local Head Office is considered. That apart, the Respondent has also not gone into the witness box to show the procedure adopted in appointment of Head Messenger. The averment in the counter is that on the earlier occasions also Appakutty Pillai, A. Perumal and Thanickachalam were appointed to the post of Head Messenger successively, since they were working at the Local Head Office and not in any branches of the Respondent-Bank. This allegation had not been substantiated by the Respondent when especially it is the case of the Petitioner-Union that since 1965 the Respondent-Bank followed the procedure of appointing of senior-most member in the zone in Madras City. At this stage, it is significant to note that this Tribunal directed this Respondent to produce the rules or conventions relating to appointment of Head Messengers. No documents were produced by the Respondent. On the other hand when the counsel for the Respondent was directed to make an endorsement that the Respondent do not have rules relating to appointment of Head Messenger, but he represented that it is only a convention. Again the Respondent was directed to make an endorsement to that effect, though he promised to make an endorsement after lunch, but however he did not make an endorsement. The non-production of any documents showing the convention procedure followed in the case of appointment of Head Messenger, coupled with the refusal on the part of the Respondent's counsel to make an endorsement that they are only following the convention, I am constrained to come to a conclusion that the Respondent has neither followed the so-called convention nor the seniority basis in filling up the post of Head Messengers.

7. Admittedly T. P. Asirvatham is a senior-most messenger working in the city office though not at Local Head Office. The said Asirvatham was a senior-most messenger in the zone in the city and that the present incumbent is junior to said Asirvatham. Therefore, the Petitioner-Union is justified in contending that the senior-most messenger should have been considered for the post of Head Messenger. It cannot be contended that the senior-most messenger at Local Head Office alone will be considered for the post of Head Messenger carrying special allowance. It would naturally affect the unfortunate messengers staff, who had no opportunity to work at Local Head Office. If the said procedure of convention followed, the employees with short service, who have not acquired experience to discharge effectively the duties of Head Messenger are likely to be appointed. Consequently Messengers working at other office in the city, who are senior-most messengers working at the Head Office were deprived of reasonable opportunities for promotion to the higher posts such as Head Messengers carrying special allowance. If such a practice of appointing a senior messenger staff working in the Local Head Office alone is considered for the post of Head Messenger, it will work hardship and injustice to deserving cases. The learned counsel for the Respondent is not in a position to show the rational behind the practice of confining the promotions to the messengers working in the Head Office alone as there was no difference in the nature of duties performed by the messengers in the Head Office and the messengers in other branches. It is also not the case of the Respondent that all messengers in Head Office had any special qualification so as to exclude the messengers working at other city branches. The practice followed by the Respondent in appointing Head Messenger, only the senior-most messenger working at the Local Head Office, would deprive equal opportunity to senior messengers in city office and thereby the discrimination is shown to the staff working in the particular office. Even assuming there is a long standing custom of following such a procedure, there is no legal right to insist that promotions should be confined only to the messenger staff at Local Head Office.

8. Viewed from any angle, the contention of the learned counsel for the Respondent that they followed the long standing procedure by custom, therefore Thiru T. P. Asirvatham was not eligible for the post, is not acceptable.

9. For all these reasons, the denial of special allowance carrying post of Head Messenger to Thiru T. P. Asirvatham is not justified. This point is found accordingly.

10. Point (ii) : Thiru T. P. Asirvatham admittedly being the senior most messenger staff in the city during the relevant period, he should have been appointed to the post of Head Messenger, when Thanickachalam retired from service in 1982. Hence the claim of the Union is justified and T. P. Asirvatham shall be appointed with effect from the date of retirement of Thanickachalam, the then Head Messenger, Local Head Office with all attendant benefits. The Respondent is further directed that in case said T. P. Asirvatham has retired, he would be entitled to the monetary benefits, had he been appointed in the place of Thanickachalam in 1982 but for his retirement. No costs.

Dated, this 15th day of September, 1989.

THIRU K. NATARAJAN, Industrial Tribunal

[No. I-12012/642/86-D.II(A)]

WITNESSES EXAMINED

For both sides : None.

DOCUMENTS MARKED

For workmen :

Ex. W-1/28-3-86—Letter from the Assistant Labour Commissioner (Central), Madras to Thiru K. R. Natarajan, Messenger, State Bank of India, LHO, Madras (Xerox copy).

Ex. W-2/22-3-86—Copy of letter Staff/Con. No. 135 addressed to Asst. Labour Commissioner (Central) Madras by the Dy. Secretary & Treasurer State Bank of India, Madras, LHO, Madras (Xerox copy).

For Management : Nil.

नई दिल्ली, 13 अक्टूबर, 1989

का. आ. 2827:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक आफ ट्रेवन्कोर और ए.वी.टी. सॉफ्टवेयर रिसर्च कंपनी लिमिटेड के प्रबन्धन के संबंध नियोजकों और उनके कामगारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण तमिलनाडु-मद्रास के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 11-10-89 को प्राप्त हुआ था।

New Delhi, the 13th October, 1989

S.O. 2827.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the following award of the Industrial Tribunal Tamil Nadu Madras-104 as shown in the Annexure in the industrial dispute between the employers in relation to the management of State Bank of Travancore & AVT Software Research Co. Ltd. and their workmen, which was received by the Central Government on 11-10-89.

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU
MADRAS-104

Monday, the 11th day of September 1989

PRESENT :

THIRU K. NATARAJAN, M.A.B.L.,

Industrial Dispute No. 86/85

(In the matter of dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workmen and the Management of A.V.T. Software Research Company Ltd., Madras and another).

Between the workmen

Represented by

The President,
State Bank of Travancore Punch Operators Association,
C/o Shri K. Chandrasekharan Nair,
Advocate, Vanchiyoor,
Trivandrum.

AND

1. The Managing Director,
A.V.T. Software Research Company Ltd.,
(Data Software Research Co. Ltd.,)
23, Marshall Road,
Egmore, Madras-600008.

2. The Managing Director,
State Bank of Travancore,
Head Office Poojapura,
Trivandrum.

REFERENCE :

Order No. L-12011 (20)/85-D.II(A), dated 3/4-12-85 of
Ministry of Labour, Government of India, New Delhi.

This dispute coming on for final hearing upon perusing the reference, claim and counter statements and all other material papers on record and upon hearing the arguments of Thiru N.G.R. Prasad for Tvl. Row & Reddy and V. Prakash, Advocates appearing for the workmen and of Tvl. P. J. George, K. J. S. Premkumar and T. H. A. Lamesh Advocates appearing for Management No. 1 and of Tvl. R. Sreekrishnan, G. Hariharan and R. Prabhakar, Advocates for Management No. 2 and this dispute having stood over till this day for consideration, this Tribunal made the following award.

AWARD

This dispute between the workmen and the Management of A.V.T. Software Research Company Ltd., and another arises out of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India in its order No. L-12011(20)/85-D.II(A), dated 3/4-12-85 of the Ministry of Labour for adjudication of the following issues :

"1. Whether the closure of contractors' establishment dealing with electronic data processing attached to State Bank of Travancore, Trivandrum w.c.f. 27-9-84 was legal and justified? If not to what relief the workman concerned are entitled?

2. Whether the State Bank of Travancore Punch Operators Association is justified in demanding continued employment either under contractors engaged by State Bank of Travancore or under State Bank of Travancore directly in electronic data processing work? If justified to what relief the workman are entitled?"

2. The claim Petition averments are that the Petitioner Union is a registered one under the Trade Unions Act at Trivandrum with Registration No. 385/83. The Punch Operators doing the electronic data processing work alone pertaining to the State Bank of Travancore are the members of the Petitioner-Union. The First Respondent State Bank of India started electronic data processing work in February 1977 at the Head Office at Poojapura, Trivandrum. 47 workers mentioned in the Annexure to the claim statement were attending this work. The work consisted in preparing a consolidated statement of all the Inter Branch transactions. Originally the First Respondent Bank entrusted the work of data processing to Tata Consultants from 1977-79. The data processing machine was brought to the Head Office building where the work was done under the control of the Respondent-Bank. After 1979 the data processing work was entrusted to Second Respondent A.V.T. Software research Co. Ltd., who in turn sub-contracted it to a number of concerns from time to time and got the work done through the 47 workmen. Though the contractors and sub-contractors changed from time to time,

the work remained constant. They did not change the contractors. The contract system was merely a camouflage. They were employed by the 1st Respondent-Bank through the so-called contractors in order to avoid the legal obligations like giving benefits to the employees. The Petitioner-Union since submitting the cost of the punch operators, the 1st Respondent did not release its idea. Therefore the data processing section was closed on 8-3-84 without assigning any reason. The workers who had been working for more than seven years suddenly thrown out from the employment causing much hardship to the workers. Then the matter was referred to the Assistant Labour Commissioners (Central), Trivandrum. While so on 26-7-84 a settlement was reached between the Petitioner association and the 2nd Respondent. The 2nd Respondent was represented by sub-contractors namely Gemini Chrome Chemicals P. Ltd., The workers resumed their work. The 1st Respondent though the real employer, they chose to remain in the background. Since the employees claimed further benefits, the 1st Respondent with the mala fide intention shifted the data processing section to a building at Vellayambalam. Again before Onam Festival in August 84, a dispute arose between the Petitioner Association and the Respondents regarding the percentage of bonus and again the matter was referred to the Assistant Labour Commissioner(C), Trivandrum to convene the conciliation meeting and the Respondents regarding the percentage of bonus and again the matter was on 21-7-84, the premises at Vellayambalam was locked. The workmen have not been provided with employment. Then agitation was started by the workmen and the dispute was raised. The 1st Respondent contended before the Conciliation Officer that the Punch Operators were employed by the contractors and not by them and the 2nd Respondent did not even appear. The conciliation again failed. Whereas, on 15-10-84 one Gemini Chrome Chemicals P. Ltd. claiming to be the employer sent a notice purported to be under Section 25-F of the I.D. Act that they decided to close down the undertaking at Vellayambalam with effect from 22-10-84. They sent some compensation and notice to the employees, which was refused. Even after locking out on 27-9-84 the 1st Respondent is getting the same data processing work done by some other clandestine means. They are sending by lorry to Madras the inter branch transactions to the 2nd Respondent and getting the documents processed there. The work was going on as can be seen from a letter dated 29-10-85 addressed to Caravan Goods Carriers Pvt. Limited, Trivandrum. The officer of the 1st Respondent were controlling these workmen. The benefit of the effort of these workmen went to the 1st Respondent Bank. If the contract system is a genuine one everytime contractor was change, he would have brought his complement of workmen. The workmen continued to remain same, even though the contractors kept changing. Though the salary was paid through 2nd Respondent really the 1st Respondent-Bank was the employer. It is a clear case of victimisation. There is no justification for not providing the employment from 27-9-84. On issue No. 2 the Petitioners prayed that the Award may be passed holding the State Bank of Travancore, the 1st Respondent was not justified in denying employment. The 1st Respondent has not followed the provisions of Contract Labour (Regulation and Abolition) Act, 1970. They have not got this work done through the licences mentioned under Section 12 of the said Act. The Bank has been convicted and sentenced to pay a fine by Judicial I Class Magistrate, Trivandrum in S.T. Case No. 69/84. It is not open to the 1st Respondent to contend that they were employed through contractors since they have not adhered to the provisions of the said Act. The non-employment is an account of closure but due to lock out. Hence the claim petition.

3. The 1st Respondent namely the State Bank of Travancore in its counter states that the State Bank of Travancore is not carrying any electronic data processing work. They do not have any equipment or facilities to do the electronic data processing work. The work is done by Data Software Research Company Limited, which has entered into an agreement with the State Bank of Travancore for rendering computer services. The company has selected and appointed of its own workmen for its own business. The workmen were supervised, controlled and their wages and benefits were directly paid by the company. The punch operators' work is only part of

the preliminary work of data processing. The demand of the Union on second issue is really a demand for abolition of contract system of employment. Abolition of contract system of employment is a matter governed by Contract Labour (Regulation and Abolition) Act, 1970. The reference of second issue for adjudication is incompetent and invalid. There is no employer-employee relationship between the workmen of Data Software Research Company Ltd. or any other company and the State Bank of Travancore. The workmen are not employed by the State Bank of Travancore at any time in their services. Their wages were paid by their employer-company and not by State Bank of Travancore. Their work was controlled and supervised by the Company and their officers. There was no manner of supervision or control by the State Bank of Travancore. The electronic equipments or computer gadgets like punching machines by means of which the electronic data processing was being done belong to the company concerned and not to the Bank. The punch cards on which the punching is done also belong to the company. The Union had placed demands and raised industrial dispute with their employers Gemini Chrome Chemicals P. Limited, the agents of the contractors and a conciliation settlement was signed under Section 12(3) of the Industrial Disputes Act. The settlement is binding on all the workmen and their employer. The work of inter-branch and inter bank reconciliation is done manually by the clerical staff of the bank. Only when there is accumulation of surplus work, it is done by computer services. The data Software Research Co. Ltd. or their agents have closed down their establishment at Trivandrum. They had also offered the closure compensation and all dues payable to the workmen consequent upon the closure of their establishment. The workmen refused to accept the compensation. The State Bank of Travancore is not in any way liable for any of the claims. Computer services were given on contract basis after inviting tenders from different computing concerns. The Bank was to pay at a fixed rate for the services carried in accordance with the agreement, Gemini Chrome Chemicals Private Limited to whom Data Software Research Company Ltd. appears to have been entrusted the work and they were paying the wages and other benefits to the workers. There was no question of Contract Labour (Regulation and Abolition) Act applies to the Bank. However the bank has also complied with the requirements of the I.D. Act. In any event the workmen are not entitled to claim against the Respondent-Bank.

4. The second Respondent in its counter states that the claim is bad for both non-joinder and mis-joinder. The name of the Respondent's Company formerly known as A. V. Thomas Software Company Limited, was changed to Data Software Research Co. Ltd., and as such there is no entity known as A. V. Thomas Research Company Limited. This Respondent is not a necessary party since none of the workers mentioned in the annexure to the claim petition were employed by them at any time. They were admittedly employees of M/s. Gemini Chrome Chemicals P. Ltd., the successors-in-interest of DATASERV. Gemini Chrome Chemicals P. Ltd., are necessary parties in these proceedings. The Respondent has not come forward with this specific claim. This Respondent does not aware or concerned with the dealings of the 1st Respondent prior to their contract. This Respondent denies that it was represented by M/s. Gemini Chrome Chemicals Private Limited. Hence the claim petition is liable to be dismissed.

5. The Points for determination are (i) Whether the closure of contractors' establishment attached to State Bank of Travancore with regard to electronic data processing was legal and justified? (ii) Whether the Petitioner-Union is justified in demanding continued employment either under contractors engaged by State Bank of Travancore or under State Bank of Travancore directly in electronic data processing work- (iii) If so to what relief the concerned workmen are entitled to?

6. W.W. 1 and W.W. 2 were examined on the side of Petitioner-Union and M.W.1 was examined on the side of the 1st Respondent-State Bank of Travancore. The Second Respondent did not choose to lead any oral evidence. Ex. W-1 to W-19 and Ex. M-1 to M-30 were marked on either side.

7. POINTS (i) (ii) : It is seen from the testimony of W.W.1, an Advocate and the President of the Petitioner-Union, that 47 members of the Petitioner-Union were working from 1977 as Punch Operators at the Head Office at Travancore. It is also his evidence that originally the work was entrusted to Data Consultants in 1977 and after 1979 to the 2nd Respondent namely A.V.T. Software Research Company Ltd. It is also clear from his evidence that the 47 workmen referred in the claim petition were actually engaged in the work by the State Bank of the 1st Respondent through various contractors. He would speak in detail about the continuation proceedings that took place between the contractors and the Petitioner-Union and also about the issue of notices by Gemini Chrome Chemicals P. Ltd to 47 workmen dispensing their services by paying compensation. But in the cross examination he would categorically say that there was no claim against the 2nd Respondent namely A.V.T. Software Research Co. Ltd. In the cross-examination by the 1st Respondent, this witness would assert that the salary of the workers were paid by the contractors, but only on behalf of the 1st Respondent State Bank of Travancore. However, he would deny the suggestion the Petitioner are employees of Data Serve Company. His evidence in effect shows the workmen are really the employees of the 1st Respondent-State of Travancore.

8. W.W.2 is one of the Punch Operators would state that he was interviewed by the committee consisting of representative of the 2nd Respondent A.V.T. Software Research Co. Ltd. and officers of the State Bank of Travancore and was appointed. He would also add that the Bank Officer used to give instructions to all Punch Operators how to change the formulae punching cards, etc. Even in the cross-examination he would assert whenever doubt or clarification arose he used to consult the officer of the Bank. As against this evidence, the 1st Respondent-State Bank of Travancore has examined its officer, who was in charge of Central Accounts from 1981—85 at Head Quarters. He would state that the bank is not carrying on any electronic data processing for its own and gives the work outside contractors. He would also refer to the work done from 1977 to 1979 by Data Consultancy. A.V. Thomas Software Research Company was engaged thereafter. He would add the bank entered into an agreement with the Data Software under Ex. M-1, M-3, M-10 agreements. In the cross-examination he would say that the Bank has nothing to do with the punch operators and that they never paid salaries, allowances to punch operators and they have no control over the work. Of course, he conceded, furniture and electricity were provided by the Bank. The Officer of the Bank used to go to Punch Operators Section. Thus it is seen M.W.1 would depose the Punch Operators has nothing to do with the bank and they were not employed by them. In order to appreciate the contentions of the parties it is necessary to go into certain documents, which would throw considerable light.

9. Ex. M-1 is an agreement dated 29-10-1979 entered into between 1st and 2nd Respondents consisting of 24 clauses. The agreement reads that the 2nd Respondent namely the A.V.T. Software Research Company Limited accepted to perform the services mentioned hereinafter upon the terms and conditions and the rates specified in the annexures. The agreed charges and schedule to the customer namely the State Bank of Travancore has been specified in the annexures. Those charges were also subjected to revision upon written notice to the customer consistent with the timing of the change in work scope. One of the conditions of the agreement is to provide space, furniture, etc. All the contractors should supply machines to enable the Punch Operators' work. Ex. M-3 and M-10 are also agreements between 1st Respondent and 2nd Respondent dated 3-11-1982 and 28-11-1984 containing the same terms and conditions. At this stage, the learned counsel for the Petitioner relying on the Clause contained in the agreement to provide space, furniture, etc. would contend that would necessary go to show though the Punch Operators were engaged by the Bank through the contractors, they actually worked in the premises of the Bank utilising the furniture, space etc and therefore they are the employees of the Bank. He further contended placing reliance on the evidence of M.W. 1 namely that the Bank provides furniture, electricity

and officers of the Bank used to go to the Punch Operators' Section and that the canteen facilities were also given to the Punch Operators; that it is the 1st Respondent-State Bank of Travancore, who exercises the control over the Punch Operators. It is also urged based on the evidence of W.W.2 since the Punch Operators were appointed by a committee consisting of Bank officials, there was element of control by the Bank. As against this contention the learned counsel for the 1st Respondent-Bank would straightway refer to Ex. M-25 series to M-30 series application forms for employment submitted by the Punch Operators and the Orders of appointment. These documents would clearly go to show the applications were made to Data serve, Madras while appointed by them. At this stage it is the case of the 1st Respondent-Bank that the Bank has its own procedure in making recruitment. He further contends Section 37 of the State Bank of India Act refers to various business, that can be done by the bank and the bank is not authorised to do any other business other than mentioned in section 6 of the Banking Regulation Act. According to him the data processing is not a business of the Bank and electronic data processing system involves by use of computers. Therefore in order to utilise data processing they have necessarily to employ outside agencies of the contractors and through whom get the work executed. The very documents filed in this case by the Petitioner-Union and also as admitted by W.W.1 would show that the salary for 47 workers was paid by Data Serve. But however W.W.1 would state the salary was paid on behalf of the State Bank of Travancore. The fact remains the salary has been paid only by Data Serve. Moreover, none of the documents of State Bank of Travancore implicate so as to contend that the workers are direct employees of the 1st Respondent. It is relevant to note from Ex. M-17 a paper advertisement made in Malayala Manorama inviting applications for the post of Punch Operators by the Data Serve Company. Ex. M-25 is the Xerox copy of the sale document dated 2-5-84 showing that the Data-Serve Company has sold the Trivandrum operations of Data serve for a sum of Rs. 101 to Gemini Chrome Chemicals P. Limited. Thus now Gemini Chrome Chemicals Private Limited come into the picture. Thereupon after purchase, Gemini Chrome Chemicals Private Limited by a notice dated 16-7-84 directed the Punch Operators to report for work, failing which it will be presumed that they did not wish to continue under contract with them. That apart reliance was also placed by the learned counsel for the Respondent on Ex. W-6, memorandum of settlement arrived at under Section 12(3) of the Industrial Disputes Act, 1947 between the Punch Operators Association, and the Representative of the employer. Under this settlement the management namely Gemini Chrome Chemicals agreed to provide work for 43 workers mentioned in the Annexure. Ex. W-7 is the letter dated 19-8-1984 written by the President of the Petitioner-Union to Gemini Chrome Chemicals P. Limited demanding 25 per cent of bonus with an additional advance of Rs. 500 to each employee in view of ensuing Onam Festival. Ex. W-8 is also a letter dated 28-8-1984 by the President of the Petitioner-Union addressed to the Assistant Labour Commissioner (Central) Trivandrum requesting him to convene a conference to settle the bonus issue with Gemini Chrome Chemicals P. Limited. These documents disclose that the Petitioner-Union though alleged to be the employees of the 1st Respondent-Bank, they claimed their rights such as bonus to Gemini Chrome Chemicals P. Limited treating them as their employers. The Petitioner-Union cannot get over these documents and contend irrespective of the fact that though they were employed by contractors, still they are employees of the 1st Respondent-State Bank of Travancore. Incidentally there is no iota of evidence produced by the Petitioner-Union to show in anyway the State Bank of Travancore is connected with their employment. Of course, the fact that the furniture and electricity provided by the Bank and that Officers of the Bank used to go Punch Operators' Section could not anyway help the Petitioner-Union as against the surmounting documents produced before the Tribunal under Ex. M-1 to M-30 and more particularly Ex. W-6 to W-8. Incidentally it is seen in the cross-examination of W.W. 1 by Second Respondent namely, A.V.T. Software Research Company Limited that the Petitioner-Union had no claim against the 2nd Respondent.

10. However the learned counsel for the Petitioner would contend in as much as the contractors have employed these workers and the contractors having not taken any licence as per Contract Labour (Regulation and Abolition) Act, the workers are deemed to be the employees of the 1st Respondent. It is true as can be seen from Ex. W-17 and W-18, no licence was taken by the contractor. Ex. W-17 is the xerox copy of letter dated 7-5-87 written by Assistant Labour Commissioner (Central) Trivandrum to the Petitioner-Union stating that the contractor namely A.V.T. Software Research Company did not obtain any licence under the Contract Labour (Regulation and Abolition) Act, 1970. Similarly Ex. W-18 dated 25-5-87 confirms the earlier communication Ex. W-17 by the Assistant Labour Commissioner (Central) Trivandrum. Ex. M-18 is also a communication dated 19-5-86 from the State Bank of Travancore (Finance & Accounts) to the Manager, Premises Department forwarding a telex message received from Data Software Research Company to the effect that they have not used any contract labour and that Gemini Chrome Chemicals Services were used by Data Software Research Company, Madras. Ex. M-21 is the xerox copy of letter dated 13-1-1987 written by the Data Software Research Company Ltd., to the Manager (Premises Department) State Bank of Travancore stating that they have not employed any contract labour during 1986. Ex. W-9 is the copy of the Register of Summary Trials held before the Addl. Judicial I Class Magistrate-I, Trivandrum. It shows that in S.T. 69/84 case the State Bank of Travancore has been convicted by the Magistrate to pay a fine of Rs. 100 for violation of Section 24 of the Contract Labour Act, 1970. It is true that neither the Respondent Bank nor the Contractor namely 2nd Respondent or Gemini Chrome Chemicals has taken out a licence under Contract Labour Act to employ contract labour. At this stage the learned counsel for the Petitioner-Union vehemently contended by placing reliance on 1985-I-LLJ page 492 (Workmen of Best and Crompton v. the Management) that the workmen are not hired through a contractor holding a valid licence under Contract Labour (Regulation and Abolition) Act, 1970, he would be a workman employed by the Management itself namely the State Bank of Travancore, the 1st Respondent herein.

11. In the above case the Management did not engage the services of 75 workmen on the ground that they were employed by the licenced contractor. This led to an industrial Dispute and the Labour Court rejected the contention of the Management and held that the Contractor was a mere name-lender and did not hold licence under the Contract Labour Act, 1970 and directed reinstatement of those 75 workmen with backwages and other benefits. This award of the Labour Court was successfully challenged before the High Court by filing a writ petition.

In the writ appeal, which was filed against the order, the Division Bench of our High Court held by discussing Section 2(2)(b) that,

"If the workman is not hired through a contractor holding a valid licence under the Act, he would be a workman employed by the Management itself. Further, the Management must be aware that the contractor had no valid licence and that therefore, the workman could not be contract labour within the meaning of Section 2(2)(b) of the Act. The Management yet engaged the Services of these 75 workmen and paid their wages through the contractor. The intermediary because of want of licence in his favour will have no existence in the eye of law. It would thus lead to the position that there is but direct relationship between the Management and these 75 workmen."

The learned counsel for the Respondent drew my attention to a decision rendered by Division Bench in W.A. 175/89 on 12-4-1989. It is seen from W.A. 175/89, in which Division Bench came to a conclusion that :

"When there is no privity of contract either under the statute or under the general law between the establishment and the contract labour, there is no scope

to bring into existence direct relationship between the establishment and the concerned workmen. No other reason was given in that judgment to come to this conclusion. Because of this sort of approach made in the said decision, it was felt that this Division Bench cannot by relying on it grant relief, and as a co-ordinate Division Bench should not take a contra view, it was expressed that this is a matter wherein it is just and proper to refer the matter to a Full Bench."

12. Apart from this fact it is seen from 198-II-L.L.J. page 4 at page 9 (workmen of F.C.I. vs. F.C.I. of India) the Supreme Court has held as follows :

"When Corporation engaged a contractor for handling foodgrains, it has nothing to do with the manner of handling work done by the contractor, the labour force employed by him, payments made by him etc. In such a fact situation, there was no privity of contract of employer and workmen between the Corporation and the workmen. "Workmen" has been defined in the Industrial Disputes Act to mean 'any person (including an apprentice) employed in any industry to do, ...'. The expression 'employed' has atleast two known connotations but as used in the definition the context would indicate that it is used in the sense of relationship brought about by express or implied contract of service in which the employee renders service for which he is engaged by the employer and the latter agrees to pay him in cash or kind as agreed between them or statutorily prescribed. It discloses a relationship of command and obedience. The essential condition of a person being a workman within the terms of the definition is that he should be employed to do the work in that industry and that there should be, in other words, an employment of his by the employer and that there should be a relationship between the employer and him as between employer and employee or master and servant. Unless a person is thus employed there can be no question of his being a 'workman' within the definition of the term as contained in the Act."

13. The result of the analysis of the above evidence and the law laid down by the Supreme Court would lead to one and the only irresistible conclusion that the workmen are not employees of the 1st Respondent Bank and they were employed by the contractors engaged by State Bank of Travancore, the 1st Respondent herein. Hence a question would arise whether these workers were employed by the contractors. In this connection, it is curious how such issue has been referred to this Tribunal by the Government. Abolition or closure of contract system is matter governed by the Contract Labour (Regulation and Abolition) Act, 1970. Any dispute regarding abolition and regulation of contract labour directly or indirectly can only be done in accordance with the provisions of the said Act and by the authorities constituted under the Act. Therefore any violation under the Contract Labour Act by closing the contract establishment without complying the provisions mentioned in the Act would attract penal provisions in that Act. In other words, the Contract Labour (Regulation and Abolition) Act 1970 being a special enactment, this Tribunal under the Industrial Disputes Act has no jurisdiction or authority to deal with any dispute relating to Contract Labour Act. Hence as rightly pointed out by the learned counsel for the Respondents the reference relating to the above issue is incompetent and invalid.

14. Viewed from any angle, the Petitioner-Union has not substantiated their demands either on facts or on law.

15. For all these reasons, these points are found against the Petitioner-Union.

16. Point (iii) : In the result the claim of the Petitioner-Union is rejected and an award is passed accordingly. No costs.

Dated, this the 11th day of September, 1989.

THIRU K. NATARAJAN, Industrial Tribunal

[No. L-12011(20)/85-D-II (A)]

S. C. SHARMA, Desk Officer

WITNESSES EXAMINED

For Management :

WW-1—Thiru Chandrasekara Nan.

WW-2—Thiru P. Lakshmanan.

For Management :

MW-1—Thiru Sasindran.

DOCUMENTS MARKED

For Workmen :

- Ex. W-1/7-4-83—Letter sent by the Petitioner-Asso- ciation to State Bank of Travancore (Copy).
- Ex. W-2/ —Letter from the Employer, Dataserve (AVT) C/o State Bank of Travancore to the Chief Executive, A. V. T. Madras regarding financial aid (copy)
- Ex. W-3/17-5-84—Letter from State Bank of Travancore to RBI, DBOD, Bombay (Copy)
- Ex. W-4/18-6-84—Letter from the Asst. Labour Commissioner (Central) Trivandrum to the Petitioner Assn. and another informing them for discussion (copy).
- Ex. W-5—10-7-84—Minutes of meeting.
- Ex. W-6/28-7-84—Memorandum of settlement u/s 12 (3) of the I. D. Act between the Management of Gemini Chrome Chemicals (P) Ltd. and their workmen (copy)
- Ex. W-7/19-8-84—Letter from the Petitioner-Assn. to the Gemini Chrome Chemicals (P) Ltd., (copy)
- Ex. W-8/28-8-84—Letter from the Petitioner-Assn. to the Asst. Labour Commissioner (Central) Trivandrum (copy)
- Ex. W-9/29-8-84—Criminal Court's imposition of fine of Rs. 100 on the State Bank of Travancore in S.T. 69/84 u/s 24 of the Contract Labour (Abolition and Regulation) Act, 1970 (copy)
- Ex. W-10/28-9-84—Petitioner-Assn.'s letter to State Bank of Travancore about illegal lock-out (copy)
- Ex. W-11/27-10-84—Petitioner-Assn.'s letter to Gemini Chrome Chemicals (P) Ltd., Madras stating about the illegal lock-out (copy)
- Ex. W-12/27-10-84—Petitioner-Assn.'s letter to the Labour Commissioner, Trivandrum to take steps in lifting closure (copy)
- Ex. W-13/19-11-84—Petitioner-Assn.'s letter to the Labour Commissioner, Trivandrum by returning the drafts sent by them (copy)
- Ex. W-14/12-2-85—Conciliation Failure Report (copy)
- Ex. W-15/19-9-85—Petition filed by the Petitioner-Assn. before the Hon'ble Prime Minister of India.
- Ex. W-16/29-10-85—State Bank of Travancore's letter to M/s. Caravan Goods Carriers Pvt. Ltd. asking arrangement to transport documents by lorry to M/s. Data Software Research Co. Ltd.,
- Ex. W-17/7-5-87—Provisional Certificate given by the Asst. Labour Commissioner (Central) Trivandrum to the Petitioner-Assn. that no licence has been given to A. V. T. Software Research Co. under the Contract Labour (Regulation and Abolition) Act (copy).
- Ex. W-18/25-5-87—Confirmation letter given by Asstt. Labour Commissioner (Central), Trivandrum to the Petitioner-Assn. that no licence has been given to A. V. T. Software Research Co. under the Contract Labour (Regulation and Abolition) Act, (copy)
- Ex. W-19/31-8-88—Letter from General Secretary of State Bank of Travancore Employees' Union, Trivandrum to Shri Verganoor Chandrasekharan Nair, Advocate, Trivandrum (Xerox copy).

For Management :

- Ex. M-1/29-10-79—Agreement between Management No. 1 and 2 (Xerox copy)
- Ex. M-2/26-6-81—Message No. 489 with enclosures from Management No. 2 to their Madras Branch (Xerox copy)
- Ex. M-3/3-11-82—Agreement between Management No. 1 and 2 (Xerox copy)
- Ex. M-4/5-1-83—Letter from Management No. 2 to Management No. 1 with enclosure (Xerox copy)
- Ex. M-5/26-5-83—Letter from Management No. 2 to Management No. 1 with enclosure (Xerox copy)
- Ex. M-6/23-8-83—Letter from Management No. 1 to Management No. 2 with enclosure regarding change in the name of their company (xerox copy)
- Ex. M-7/25-8-83—Letter with enclosures from Management No. 1 to Management No. 2 (Xerox copy)
- Ex. M-8/18-11-83—Letter with enclosure from Management No. 2 to their Madras Branch (Xerox copy)
- Ex. M-9/1-9-84—Letter from Management No. 2 to Management No. 1 (Xerox copy).
- Ex. M-10/28-11-84—Supplementary agreement between Management No. 1 and Management No. 2 (Xerox copy)
- Ex. M-11/24-5-85—Letter from Management No. 2 to Management No. 1 (Xerox copy)
- Ex. M-12/4-7-85—Letter with enclosure from Management No. 2 to Management No. 1 (Xerox copy)
- Ex. M-13/6-7-85—Letter from Management No. 2 to Management No. 1 (Xerox copy)
- Ex. M-14/16-9-85—Letter from Management No. 2 to Management No. 1 (Xerox copy)
- Ex. M-15/19-9-85—Letter from Management No. 2 to Management No. 1 (Xerox copy)
- Ex. M-16/5-12-85—Letter from Management No. 2 to Management No. 1 (Xerox copy)
- Ex. M-17/22-2-82—Malayala Manorama paper publication (Xerox copy)
- Ex. M-18/19-5-86—Memorandum of State Bank of Travancore addressed to the Manager, Premises Department (Xerox copy)
- Ex. M-19/19-5-86—Letter from the Manager, Premises Department, State Bank of Travancore to the Asst. Labour Commissioner (Central) Trivandrum (Xerox copy)
- Ex. M-20/15-12-86—Letter from the Manager, Premises Department, State Bank of Travancore to M/s. Data Software Research Co. Ltd. Madras (Xerox copy)
- Ex. M-21/13-1-87—Reply by Data Software Research Co. Ltd., to M-20 (Xerox copy)
- Ex. M-22/series—Application forms for employment submitted by the Punch Operators with some call letters sent to the punch operators for the said applications (Xerox copy)
- Ex. M-23/series—Acknowledgements received in response to the first notice from Gemini Chrome Chemicals dated 18-6-84 sent to the Punch Operators calling them to report for duty at the Vellayambalam Office.
- Ex. M-24/series—Returned Notices unaccepted by the Punch Operators.
- Ex. M-25/2-5-84—Agreement between Mrs. Jennifer Arul (proprietor of Data Serve) and the Gemini Chrome Chemicals (P) Ltd., to take over the Trivandrum Operation of Data Serve by the latter (Photostat copy)

- Ex. M-26/16-7-84—Notice to all Punch Operators by Gemini Chrome Chemicals (P) Ltd., Madras to report for work (Xerox copy)
- Ex. M-27/17-7-84—Letter from Gemini Chrome Chemicals (P) Ltd., Madras to the Asst. Labour Commissioner (Central), Trivandrum (Xerox copy)
- Ex. M-28/series—Acknowledgements received from Punch Operators in response to the Notice dated 16-7-84 (xerox copy)
- Ex. M-29/series—Xerox copies of Drafts sent to the Punch Operators by Gemini Chrome Chemicals (P) Ltd., being the compensation paid to them which were returned unaccepted.
- Ex. M-30/series—Postal receipts for the notices sent to Punch Operators.

नई दिल्ली, 11 अक्टूबर, 1989

का. आ. 2828:—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (ड) के उपखण्ड (vi) के उपबन्धों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का. आ. 932 दिनांक 6 अप्रैल, 1989 द्वारा मैग्नेसाइट खनन उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 11 अप्रैल 1989 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था ;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है ;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उपखण्ड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 11 अक्टूबर, 1989 से छः मास की और कालावधि के लिए लोक उपयोगी सेवा घोषित करती है ।

[फा.सं. एस-11017/8/85-डी I (ए)]

नन्द लाल, अवर सचिव

New Delhi, the 11th October, 1989

S.O. 2828.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provision of sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the notification of the Government of India in the Ministry of Labour S.O. 932 dated the 6th April, 1989 the Magnesite Mining Industry to be a public utility service for the purposes of the said Act for a period of six months, from the 11th April, 1989 ;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months ;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purpose of the said Act, for a further period of six months from the 11th October, 1989 ;

[No. S-11017/8/85-D.I(A)]

NAND LAL, Under Secy.

नई दिल्ली, 16 अक्टूबर, 1989

का. आ. 2829:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार जनरल मैनेजर, पुणे टेलीफोन्स, पुणे के प्रबन्धतंत्र के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. I बम्बई के पंचाट की प्रकाशित करती है जो केन्द्रीय सरकार को 9-10-89 को प्राप्त हुआ था ।

New Delhi, the 16th October, 1989

S.O. 2829.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. I, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of General Manager, Pune Telephones, Pune and their workmen, which was received by the Central Government on 9-10-1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I AT BOMBAY

PRESENT :

Mr. Justice M. S. Jamdar, Presiding Officer.

Reference No. CGIT-36 of 1988

PARTIES :

Employers in relation to the management of General Manager, Pune Telephones, Pune.

AND

Their workmen.

APPEARANCES :

For the Management—Mr. P. M. Pradhan, Advocate.

For the Workmen—Workman present in person.

INDUSTRY : Telephone

STATE : Maharashtra

Bombay, the 4th day of August, 1989

AWARD

The Central Government in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947, has referred the following dispute to this Tribunal for adjudication :—

"Whether the action of General Manager Pune Telephones Pune in not reinstating in service Shri Dilip Sobha Pingale, Casual Mazdoor, after he was reportedly acquitted of the offence by the Distt. and Sessions Judge Pune is justified ? If not, to what relief the workman is entitled ?"

2. The management opposed the claim of the workman. However at the hearing of the reference the parties filed Memorandum of Settlement and prayed for an Award in terms of the said Settlement.

3. The terms of the Settlement are as follows :—

"1. Parties hereby agree that the claimant party No. 1 shall be taken in employment as and from 7th August, 1989.

2. Party No. 1, employee, agrees and undertakes not to claim back wages for the period between termination of his services and reinstatement as and from 7th August, 1989. However, the party No. II, the Department agrees to give benefit of the said period for the purpose of continuing continuity of service for permanent absorption in the employment."

4. The Settlement is quite fair and just. I therefore, accept it and pass an award as per the terms of the above mentioned settlement Award accordingly.

M. S. JAMDAR, Presiding Officer

[No. L-40012/9/87-D.II (B)]

नई दिल्ली, 17 अक्टूबर, 1989

का.आ. :- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार चीफ टेलीकम इन्स्पेक्टर माइक्रोवेव, सेन्ट्रल रेलवे, पुना के प्रबन्धन के सम्बन्ध निरोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1 बम्बई के पंचांग को प्रकाशित करती है जो केन्द्रीय सरकार को 11-10-89 को प्राप्त हुआ था।

New Delhi, the 17th October, 1989

S.O. 2830.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Chief Telecom Inspector, Microwave, Central Railway, Pune and their workmen, which was received by the Central Government on 11th October, 1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I AT BOMBAY

PRESENT :

Mr. Justice M. S. Jamdar, Presiding Officer.

Reference No. CGIT-7 of 1987

PARTIES :

Employers in relation to the management of Chief Telecom Inspector, Microwave, Central Railway, Pune,

AND

Their workmen.

APPEARANCES :

For the Management—Mr. P. R. Pai, Advocate.

For the Workmen—Mr. V. P. Vaidya, Advocate.

INDUSTRY : Railways.

STATE : Maharashtra.

Bombay, the 6th day of April, 1988

AWARD

The Central Government in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947, has referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Chief Telecom Inspector, Microwave, Central Railway, Pune, in terminating the services of S/Shri U. R. Shinde, S. C. Udappa, S. W. Degwekar, Wireless Telecom maintainers w.e.f. 5th September, 1985, is legal and justified? If not, to what relief the workmen are entitled to and from what date?”

2. Shri U. R. Shinde, was appointed as Wireless Telecom Maintainer, in the Bombay Division, Central Railway, in the Office of the Chief Telecom Inspector (Microwave), at Pune, as a casual workman on 19th September, 1982. Shri S. C.

Udappa and Shri S. W. Degwekar, were appointed in the same position with effect from 1st July, 1983, and 22nd December, 1983, respectively. After completion of 120 days of continuous work as casual labour all the three were put on monthly basis in the grade of 260—400. They also became eligible for yearly increments, D.A., T.A., C.C.A. leave, railway passes, P.T.O., medical benefits etc. Provident fund deductions were also made from their salary after completion of one year of service. They also earned yearly increments. All the benefits given to class-III temporary employees were extended to them. This position is categorically admitted in his cross examination by Shri Hazrat Sahab Imam Sahab Madki, Grade-I Inspector, in the Office of the Divisional Signal, and Telecom Engineer (Microwave) Pune, who deposed on behalf of the Central Railway. He categorically admitted that after completion of 120 days of their work, all the three were given temporary status.

3. The services of the three workman were terminated by notice dated 18th July, 1985. They were informed by the said notice that as the vacancies were filled by regular WTM's, their services were not required after 18th August, 1985. The notice are at Exh. W-7 Exh. W-8 and Exh. W-9. According to the workman, these notices were ante dated and actually served on them on 19th August, 1985. According to the Railways, the notices were sought to be served and retrenchment compensation was offered to them on 18th July, 1985, but they refused to accept the notice as well as retrenchment compensation on that date. It is however, an admitted position that the notices were actually served on the workman and retrenchment compensation was paid to them on 19th August, 1985. The workmen therefore raised an industrial dispute challenging the termination of their service. This dispute was admitted in conciliation by the Assistant Labour Commissioner (C), Pune. It will be seen from the report Exh. W-4, dated 4th November, 1985, made by the Assistant Labour Commissioner (C), Pune, that he pointed out to the Railway Authorities, who attended the Conciliation Proceedings on 4th September, 1985 that it was not proved beyond doubt that the notice of retrenchment was actually served on the three employees and that they refused to accept the said notices, that notice of that retrenchment was not sent in the prescribed manner to the appropriate Government and that the amount of retrenchment compensation paid to the workmen was not in accordance with the provisions of section 25F of the Industrial Disputes Act, 1947. It is the case of the Railway that in view of these defects pointed out by the Assistant Labour Commissioner (C), Pune, it was decided to treat all the three workmen to be in the employment till 4th September, 1985, and fresh notice of retrenchment was issued to all of them and arrangement was made to pay one month's wages in lieu of notice and wages from 18th August, 1985 to 4th September, 1985, and that all the three workmen were asked to go to the Office of the Divisional Engineer for receiving the notice and payment. But none of them turned up and hence written intimations were sent at their respective residences directing them to attend the Office at 9.30 a.m. on 5th September, 1985. But as none of them turned up as directed, the amounts were sent by Money-Order and notices were sent by Registered Post A/D to all the three workmen at their known residential addresses.

4. Admittedly, the earlier order of termination was not specifically cancelled nor any order was passed on 4th September, 1985 reinstating the workmen in service, before fresh notice of termination were issued to the workmen. It will also be seen from the relevant record that the notice terminating the services of the workmen with effect from 4th September, 1985, was actually sent on 5th September, 1985. Even according to the Railways, the notice pay and wages for the period from 18th August, 1985, to 4th September, 1985 and additional retrenchment compensation payable to Shri Degwekar were sent by Money-Order on 5th September, 1985. According to the Railways, the fresh termination notices could not be served and the workmen could not be paid notice pay and other amounts on 4th September, 1985, because the workmen did not come to the office to receive the same even though they were directed to do so after the conciliation proceedings were over on that day. It is however difficult to accept this story which is rendered more improbable by what Shri Hazrat Sahab Imam Sahab Madki, who allegedly issued fresh order of termination and sent the money

orders, stated in his cross examination. This is what the witness stated :

"I was not personally present during the conciliation proceedings. The earlier termination orders dated 18th July, 1985 were never cancelled. The concerned workmen were never asked to resume duty after the termination orders dated 18th July, 1985 were decided to be cancelled. The conciliation proceedings commenced on 4th September, 1985 but I do not know exactly at what time the proceedings commenced. I cannot also say the exact time when the proceedings concluded on that day. I cannot say who took the decision to treat the workmen as in service. I was on duty on 4th September, 1985. My normal duty hours are from 9 a.m. to 6 p.m. I was in my Office till 5.30 p.m. on that day. I cannot say whether after conclusion of the conciliation proceedings on 4th September, 1985, I had asked the workmen to come to the office before 5.30 p.m. It is correct to say that after waiting for the workmen till 5.30 p.m. in my office, I sent the intimations asking them to come to the office at 9.30 a.m. on the next day. I did not meet the workmen on 4th September, 1985."

It will also be seen that by the intimations sent to the workmen on 4th September, 1985, the workmen were asked to attend the office on 5th September, 1985, only for the purpose of receiving the payments. Admittedly, no notice of termination was sent along with the intimation. It is therefore crystal clear that no notices of termination, terminating the services of the workmen with effect from 4th September, 1985, could have been sent on 4th September, 1985, nor were such notices actually sent on that day. From the evidence of Shri Madki, it also appears to be doubtful whether any such decision was taken on 4th September, 1985. The notice terminating the services with effect from 4th September, 1985, which was sent on 5th September, 1985 therefore, was bad in law. There was also no earthly reason and plausible explanation for the ugly haste committed by the Railway Officers after it was found in the conciliation proceedings that the earlier termination notice was bad. Heavens would not have fallen if the earlier termination notices were duly cancelled, the workmen reinstated in service and paid wages upto that date and by separate notices properly issued their service, was terminated. It is difficult to accept the claim of the Railway Authorities that all these things were done on 4th September, 1985.

5. The termination was bad for other reasons also. It will be seen from the termination order issued to Shri S. C. Udappa, Exh. M-22 that the termination order was issued by Shri Madki, who was then working as Chief Telecom Inspector (Microwave). It is an admitted position that the appointing authority for the post of Wireless Telecom Maintainer was the Divisional Signals and Telecommunication Engineer (DSTE). Shri Madki who was lower in rank to the appointing authority, had therefore no authority to terminate the services of the workmen. There is nothing in the termination order Exh. W-22 to show that Shri Madki issued the order as per the directions of the concerned DSTE. Admittedly the termination order issued to the others were also issued by Shri Madki.

6. The workmen specifically contended that they were retrenched while retaining their juniors in service. They gave the list of temporary employees junior to them in their division. In his affidavit of evidence Shri U.R. Shinde has specifically mentioned the names of 15 employees who were junior to him and the other two workmen and who were retained in service. He was not cross examined on this point, nor the Railway administration filed the seniority list, which is admittedly maintained, to disprove the assertion of the three workmen that their juniors were retained in service while retrenching them. The retrenchment of the three workmen therefore violated section 25-G of the Industrial Disputes Act, 1947.

7. In the result therefore, it is held that the action of the management of the Chief Telecom Inspector (Microwave), Central Railway, Pune in terminating the services of S/Shri U. R. Shinde, S. C. Udappa, S. W. Degwekar, Wireless Telecom Maintainers with effect from 4th September 1985 was illegal and unjustified and the workmen entitled to be

reinstated in service with full back wages from 4th September, 1985. The first party is therefore directed to reinstate the workmen in service forthwith and to pay them full back wages from 4th September, 1985, till the date of actual reinstatement, within one month from the publication of this award. Award accordingly.

M. S. JAMDAR, Presiding Officer

[No. L-41011/29/85-D.II(B)]

नई दिल्ली, 19 अक्टूबर, 1989

का.आ. 2831:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार डिपार्टमेंटल टेलिग्राफ आफिस, नासिक के प्रबन्धतंत्र के सम्बद्ध नियोजकों और उनके कर्मकरों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1 बम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-10-89 को प्राप्त हुआ था।

New Delhi, the 19th October, 1989

S.O. 2831.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 1, Bombay, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Departmental Telegraph Office, Nasik and their workmen, which was received by the Central Government on 9-10-1989.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT BOMBAY

PRESENT :

Mr. Justice M. S. Jamdar, Presiding Officer.

Reference No. CGIT-6 of 1987

PARTIES :

Employers in relation to the management of Departmental Telegraph Office, Nasik.

AND

Their workmen.

APPEARANCES :

For the Management : Mr. P. M. Pradhan, Advocate.

For the Workmen : Mr. S. M. Dharap, Advocate.

INDUSTRY : Telegraphs STATE : Maharashtra
Bombay, the 13th day of September, 1989

The Central Government in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of section 10 of the Industrial Disputes Act, 1947, has referred the following dispute to this Tribunal for adjudication :—

"Whether the action of the management of Departmental Telegraph Office, Nasik Road, in the removal of Shri P. G. Patekar, Ex-telegraphman (Indoor), Nasik from the service with effect from 19-4-1980 is justified ? If not what relief the workman concerned is entitled to ?"

2. The workman who was working as Telegraphman (Indoor) Departmental Telegraph Office, Nasik, was served with two charge-sheet, first dated 17-12-1979 and the second dated 20-2-1980. The charges levelled against the workman by the first charge-sheet dated 17-12-1980, were as follows :—

"1. That the said Shri P. G. Patekar, Telegraphman (Indoor), Departmental Telegraph Office, Nasik while

functioning as such during the period from 16-1-1979 to 1-12-1979 disobeyed the orders in not attending before Civil Surgeon, Civil Hospital, Nasik, on 29-8-1979 and has thereby failed to maintain absolute devotion to duties contravening the provisions of Rule 3(i)(ii) of C.C.S. (Conduct) Rules 1964.

2. That while functioning in the aforesaid post during the aforesaid period the said Shri P. G. Patekar, Telegraphman (Indoor), Departmental Telegraph Office, Nasik absented himself from duties from 17-11-1979 contravening the provision of Rule 162 of P & T Manual III.
3. That the said Shri P. G. Patekar, Telegraphman (Indoor), Departmental Telegraph Office, Nasik during the aforesaid period submitted medical certificates on 14 occasions abnormally late (out of 20 medical certificates), contravening the provisions of Rule 162 of P and T Manual III."

The charges were founded on the allegations that out of 20 medical certificates submitted by the workman during the period from 16-1-1979 to 1-12-1979, 14 were submitted abnormally late; that he remained absent with effect from 17-11-1979 in contravention of Rule 162 of Post and Telegraph Manual III and that by disobeying the orders to present before Civil Surgeon, Nasik on 29-8-1979, for medical examination he failed to maintain absolute devotion to duties thus contravening Rule 3 (i)(ii) of C.C.S. (Conduct) Rules 1964.

3. By the Memorandum dated 20-2-1980, the workman was charged as follows :

"That while functioning as such the said Shri P. G. Patekar, Telegraphman (Indoor), Departmental Telegraph Office, Nasik, is absent from duties from 1st February, 1980 till date without any intimation contravening the provisions of Rule 162 of P and T Manual III and C.C.S. (Conduct) Rules 1964 3 I (i)(ii)(iii)."

The allegations on which this charge was based were as follows :

"After declaring fit vide Civil Surgeon, Civil Hospital, Nasik No. C-12846/1979 dated 17/20-11-1979 the official Shri P. G. Patekar, Telegraphman (Indoor) D.T.O. Nasik, was absent till 20-1-1980. The official submitted an application dated 21-1-1980 to allow him to join his duties from 21-1-1980 without assigning any cause for his previous absence from the date of his fitness. The official attended his duties from 21-1-1980 to 31-1-1980 and remained absent from 1-2-80 till date without any intimation or without assigning any cause for his absence. Thus the behaviour of the official as stated above is in contravention to the provision of Rule 162 of P and T Manual III and C.C.S. (Conduct) Rules 1964 3 I (i)(ii)(iii)."

4. The record produced by the management however shows that no enquiry was held into the charge levelled by the second charge-sheet. Even no enquiry officer was appointed to enquire into the said charge. It will also be seen from the final order of removal that the charge-levelled by the second charge-sheet was not the basis of the said order. The said order was passed on the charges levelled against the workman by the first charge-sheet.

5. Shri S. D. Rajurkar, Junior Engineer, Telephone Exchange Nasik was appointed as the enquiry officer to enquire into the charges mentioned in the first charge sheet. By notice dated 14-2-1980, the enquiry officer informed the workman that the enquiry would be held on 3-3-1980. As the workman remained absent on that day, the enquiry was adjourned to 15-3-1980. The workman was duly informed about the adjourned date and by letter dated 7-3-1980, the workman confirmed that he would attend the enquiry on 15-3-1980. He however, did not remain present on that day also and hence the enquiry officer decided to proceed with the enquiry ex parte against him. He was justified in doing so but he did not hold any enquiry even ex parte and submitted his report dated 1-4-1980 to the disciplinary authority viz. the Superintending Incharge, Departmental Telegraph

Office, Nasik who on the basis of the said report passed the order of removal on 19-4-1980.

6. An attempt was made to place on record of this reference the original document styled as proceedings in respect of the enquiry held ex parte by Shri Rajurkar. This document was sought to be produced through R. Hajarath, the Superintendent, Departmental Telegraph Office, Nasik, who admitted in his cross examination that he was not present at the enquiry and did not know anything about it. The document which according to the management contains the ex parte proceedings held on 15-3-1980, by Shri Rajurkar is very cryptic one and reads as follows :—

"The enquiry under Rule 14 of CCS (CCA) Rules 1965 was fixed on 15-3-1980.

Shri R. D. Chiplunkar T.T.S.I. R.D.J.O. Nasik as Presenting Officer in the case attended at 1000 hrs. on 15-3-1980 and was present upto 1700 hrs. As Shri P. G. Patekar, Telegraphman (Indoor) D.T.O., Nasik, did not attend the enquiry, the enquiry has been conducted Ex-parte. The relevant records have been examined and facts verified."

7. It is therefore crystal clear that no enquiry worth the name was held by Shri Rajurkar, even ex parte on 15-3-1980. Moreover, even though the report submitted by Shri Rajurkar was dated 1-4-1980, the proceedings of the so called enquiry held on 15-3-1980, are signed by Shri Rajurkar on 8-4-1980. There is no plausible explanation of this highly suspicious circumstance. It is thus crystal clear that the punishment for alleged mis-conduct was inflicted on the workman without holding any enquiry, much less proper.

8. In the absence of any pleading that in the event it was found that no proper enquiry was held, liberty should be given to the management to prove the charges in this reference, there is no question of the management proving the charge by leading evidence in this reference. Moreover, as mentioned above, the second charge was not the basis of the removal order and hence proving the charge levelled by the second charge-sheet does not arise.

9. A plain reading of the charges levelled by the first charge-sheet will show that the first and third charge were flimsy and frivolous. It is an admitted position that even though the workman did not present himself before the Civil Surgeon for medical examination on 29-8-1979, he did present himself for medical examination on 17-11-1979 in pursuance to the directive given by the Office by the letter dated 7-11-1979. It is also difficult to understand how submitting medical certificates abnormally late constitutes misconduct. If the certificate were submitted late the concerned departmental authority would have been justified in refusing the medical leave sought on the basis of the said certificates and proceeded against the workman for habitual absence without permission/leave. The fact that the workman was not proceeded for unauthorised absence, habitual or otherwise, during the period covered by the medical certificates means that the leave was sanctioned and the medical certificates though submitted late were accepted. The only charge that could be properly levelled against the workman by the first chargesheet was that he remained absent from 17-11-1979. But as mentioned above, no enquiry worth the name was made in respect of the charges levelled by the first charge-sheet. The removal order passed against the workman therefore cannot be sustained.

10. In the result, it is declared that the action of the management of Departmental Telegraph Office, Nasik Road, removing Shri P. G. Patekar from service with effect from 19-4-1980, was unjustified, wrong and illegal, and the management of Departmental Telegraph Office, Nasik Road, is directed to reinstate the workman in service with full back wages from 19-4-1980, till the date of actual reinstatement.

Award accordingly.

M. S. JAMDAR, Presiding Officer

[No. L-40012/48/85-D II (B)]

नई दिल्ली, 23 अक्टूबर, 1989

का.आ.०2832:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में केन्द्रिय सरकार उत्तर रेलवे, लखनऊ के प्रबन्धतंत्र से सम्बद्ध नियाजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रिय सरकार औद्योगिक अधिकरण कानपुर के पंचाट का प्रकाशित करना हूँ जा केन्द्रिय सरकार का प्राप्त हुआ था ।

New Delhi, the 23rd October, 1989

S.O. 2832.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Railway, Lucknow and their workmen, which was received by the Central Government.

BEFORE SHRI ARJAN DEV PRESIDING OFFICER CEN-

TRAL GOVERNMENT INDUSTRIAL TRIBUNAL
KANPUR

Industrial Dispute No. 155 of 1987

In the matter of dispute between :

Shri D. P. Awasthi

Divisional Secretary

Uttar Railway Karamchhari Union

C/o Smt. Manorma Awasthi 39 III

Multistoreyed Railway Colony

Charbagh Lucknow.

AND

The Dy. C.M.O. C&M Shops northern railway.

Alambagh Lucknow.

AWARD

1. The Central Govt., Ministry of Labour, vide its notification No. L-41012/13/86-D.II(B) dated 16-10-87, has referred the following dispute for adjudication to this Tribunal:—

Whether the action of the Dy. C.M.C. C&W Shops Northern Railway Lucknow in reducing the pay of Shri Radhey Shyam Snukla Mistry w.e.f. 1-9-85 from Rs. 530 to Rs. 488 and proposed recovery w.e.f. 6-12-79 is fair and justified? If not to what relief the concerned workman is entitled to?

2. The Industrial Dispute on behalf of the workman has been raised by the Divisional Secretary, Uttar Railway Karamchhari Union (Hereinafter referred to as URKU). The case of the URKU is that the workman was appointed as a Trade Apprentice on 1-9-48 and on completion of training was appointed as Skilled Artisan on 28-2-54 in Tool Room in the Gr. Rs. 260-400 (revised). On 19-10-70 the workman was transferred from Shop Floor to Production Control Organisation (hereinafter referred to as PCO) to work as Junior Progress Man (hereinafter referred to as JPM) in the grade Rs. 330-480. On 6-12-79, the workman was sent back to Shop Floor, his parent department where he was also promoted in the Gr. (Rs. 330-480). On return to Shop Floor the pay of the workman was fixed at Rs. 440 per month, the pay which he was drawing in PCO. He was further promoted to the post of Mistri in the Gr. Rs. 330-560 on 10-9-83 and on promotion his pay was fixed at Rs. 500 per month. On 1-9-85, the pay of the workman was raised to Rs. 530 per month. On 20-4-85, the Railway Administration, without assigning any reason reviewed the matter of fixation of pay of the workman promoted and fixed his pay at Rs. 488 per month. On appeal made by the workman it was revealed by the Railway Administration that the pay of the workman was fixed erroneously on his return to the parent department from

PCO and the error was rectified by reducing his pay from Rs. 530 P.M. to Rs. 488 per month. The URKU alleges that order reducing his pay is illegal inasmuch as it was done by way of punishment without issuing a show cause notice to the workman. It has, therefore, been prayed by the URKU that after holding the order reducing his pay as unjustified, he may be held entitled to receive his salary at the rate of Rs. 530 per month w.e.f. 1-9-85.

3. The management admit that the workman was appointed as Trade Apprentice in the Workshop on 1-9-48, and after completion of his training was absorbed as Skilled Workman on 28-2-54 in the Gr. Rs. 25-130. On 19-10-70, the workman who held his lien and substantive seniority in the Shopfloor was transferred to PCO as JPM, which is an Ex-Cadre Post in the pay scale of Rs. 130-212 revised to Rs. 330-480. According to the Railway Board's letter No. E(P&G) 59 SR-6-22 dated 22-4-63, PCO has been treated as Ex-Cadre and the staff inducted into PCO from the shop floor will be born on seniority list of particular category of the Shopfloor and will have a lien against a post in the Shopfloor. The said letter further provides that selection to post in higher grades in the PCO will not in itself give to an employee any right for consideration for the higher grade posts on the shopfloor, unless he is regularly selected for the grade on the shop floor. It further says down that as and when an employee reverts to the shopfloor he will return to his due position in the cadre in the shopfloor. On 6-12-79, the workman was transferred from PCO to his substantive cadre on shopfloor as Highly Skilled Gr. II in the pay scale of Rs. 330-480 (RS), but erroneously he was allowed to draw the higher pay which he was drawing as JPM in the pay scale of Rs. 330-480 (RS) and also allowed increments accordingly. He was further promoted as Mistri on Shopfloor and his pay as Mistri was fixed on the basis of pay as HS Gr. II which was erroneously fixed at higher rate in contravention of extent rules regarding fixation of pay in such case. The result was that the workman continued to draw incorrectly fixed higher rate of pay as HS Gr. II and Mistri such time his pay was revised vide no. 725 E(DCME)1-L dated 23-4-85, on a representation made by Shri Shiv Prasad Sr. Mistri holding ticket No. 1-L, in accordance with Railway Board's Letter No. E(P&A)11-73/PP-3 dated 16-5-73. The management pleads that the workman's pay so revised vide letter dt. 20-4-85 (supra) was also found incorrect with the protection of pay as allowed to him as PP from 6-12-79 to 30-11-81 was not admissible to him in terms of Railway Board's letter dt. 16-5-73 (supra) according to which the protection of pay drawn in the cadre post was admissible only in cases falling between 18-11-66 and 16-5-73. Therefore, the error was corrected vide office letter No. 725-E/B(ME)/2-L dated 4-10-86 and his pay was fixed at Rs. 420 per month as on 6-12-1979, Rs. 464 per month as on 12-9-83, Rs. 476 per month w.e.f. 1-9-84 and Rs. 488 per month as on 1-9-85. W.E.F. 1-9-86, his pay was further raised to Rs. 500 per month. The management further pleads that over payments involved in the case due to erroneous fixation of pay will be recovered from workman's pay in easy instalments. Such deductions are admissible under section 7(2)(f) of the Payment of Wages Act 1936. For fixation of pay no notice was required to be given to the workman. However, deductions which were being made every month from the salary of the workman have been suspended for the time being as a precautionary measure on receipt of notice of this case.

4. In the rejoinder, the URKU has asserted that the pay of the workman on his return from PCO to his parent department was rightly fixed and there had been no error in the fixation of his pay as and when he got further promotion. The URKU has again challenged, the order reducing his salary on grounds already pleaded in the claim statement.

5. In support of its case the URKU has filed the affidavit of the workman. On the other hand, in support of their case, the management have filed the affidavit of Shri Arvind Kumar Dealing Assistant and a few documents.

6. In his cross examination, the workman has admitted that while he was working as skilled worker his scale of pay was Rs. 35-130. He has also admitted in his cross-examination that the post of JPM is an Ex-Cadre Post and that the seniority in the parent department is determined according to particular category. Lastly, he admits that on 5-12-79, he was brought back to his parent department as HS Gr. II in the pay scale of Rs. 330-480.

7. The management witness has filed with his affidavit copy of Railway Board's letter NO. E (NOC)/59 SK6 dt. 22-4-83. It lays down that all posts in PCO shall be treated as Ex-Cadre posts. It further provides that every workshop employee will be born on the seniority list of the particular category on shopfloor and will have a lien against a post in the shopfloor. Para 6 of this letter is to the effect that selection of post in the higher grades in the PCO would not in itself give an employee any right for consideration for the higher grade post on the shopfloor. As and when an employee reverts to the shopfloor he will revert to his due position in the cadre on the shopfloor.

8. Shri Awasthi, appearing for the URKU, has challenged the action of the management in reducing his pay mainly on 3 grounds. Firstly, he has argued that Railway Board's letter referred to in para 8 of the written statement has been made applicable to such railway servants whose salaries had been fixed in their original cadre on the basis of pay drawn by them in the Ex-Cadre post on or after 18-11-66 and not to those whose salaries had been fixed prior to 18-11-66. Secondly, he has argued that before ordering deduction in salary, a show cause notice should have been given to the workman keeping in view the principles of natural justice. Lastly, he has argued that the procedure adopted by the management is hit by Article 14 of the Constitution as no such procedure was followed by the management in the case of Railway Employees named in para 8 of the workman's affidavit. The workman has thus been discriminated.

9. In all the above 3 points I find no substance. It appears to me that Shri Awasthi has not cared to see the date of Railway Board's letter referred to in para 8 and para 10 of the written statement. From the two paragraphs it will appear that the Railway Board's letter is dt. 16-5-73. If the date of letter is 16-5-73, the date 18-11-86 as appearing in para 8 at page 3 of the written statement will automatically become erroneous. It is nothing but a typing mistake. The correct date is 18-11-66, as is found given in para 10 of the written statement and also in the copy of Railway Board's letter annexed to the affidavit of the management witness. It has been rightly pleaded in para 10 of the w.s. that in terms of the said letter of the Railway Board the protection of pay as allowed to workman as P.P. from 6-12-79 to 30-11-81 was not admissible. It was admissible only in cases falling between 18-11-66 and 16-5-73.

10. Thus in the first point argued by Shri Awasthi, I find absolutely no force.

11. While considering the second point it has to be borne in mind that the Tribunal is a quasi judicial body which is not bound by strict rules of evidence and procedure as laid down in the Indian Evidence Act and the Code of Civil Procedure. The Tribunal has simply to see whether or not while passing a particular order, the management have violated the principles of natural justice. It is admitted to the management witness that before ordering deduction of pay no notice was given to the workman by the management.

12. To my mind where there is an apparent error, no notice is required. It has not been shown to me that refixation was done in violation of the Railway Board's letter dated 16-5-73 or that after refixation in accordance with the said circular, the workman's pay would be different from that refixed by the management. If no notice was given to URKU/workman, it/he could have shown to the Tribunal that the refixation has been done wrongly and against any specific rule. Management witness have filed with his affidavit copies of order dated 20-4-85 and 4-10-86 showing as to what should have been workman's pay on different dates.

Shri Awasthi could not point out any mistake in them. Fixation having been done erroneously in disregard of the above Railway Board's letter, the management were competent to refix it in accordance with that circular. As already remarked Shri Awasthi could not point out any mistake in refixation of pay of the workman as shown in the two orders.

13. Some names have been given by the workman in para 8 of his affidavit. Their names do not appear in the claim statement. Shri Awasthi cross-examined the management witness on it. The management witness has replied that on inquiry made by him he has found that no such persons are in the employment of the railway. Thus firstly, no such plea was raised by URKU and secondly in view of the reply given by Shri Awasthi. From Sec. 7(2)(f) it is clear that deduction point argued by Shri Awasthi. Hence, management's action in reducing the pay of the workman from Rs. 530 to 488 per month w.e.f. 1-9-85 cannot be held as unjustified and unfair.

14. The next question to be considered is whether overpayment made to the workman can be recovered by the management or not. No argument has been addressed on this point by Shri Awasthi. From Sec. 7(2)(f) it is clear that deduction from wages of an employee can be made for adjusting over payments of payments. Therefore, the management are fully competent to order recovery of overpayments made to the workman on the basis of wrong fixation of his pay.

15. Accordingly reference is answered against the URKU/workman.

Dt. 18-9-1989.

ARJAN DEV, Presiding Officer
[No. L-41012/13/86-D.II(B)(Pt.)]

का.आ. 2833:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सेन्ट्रल इन्स्टीट्यूट फार काटन रिसर्च, नागपुर के प्रबंधन के सम्बद्ध नियोज्जकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, बम्बई के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 2833.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Central Instt. for Cotton Research (ICAR), Nagpur and their workmen, which was received by the Central Government.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY :

PRESENT :

Shri P. D. Apshankar, Presiding Officer.

REFERENCE NO. CGIT-2/29 OF 1987

PARTIES :

Employers in relation to the Management of Central Institute for cotton research (ICAR), Nagpur and their workmen.

APPEARANCES :

For the Employers : Shri Ramesh Darda, Advocate.

For the Workmen : No appearance.

INDUSTRY : Research Institute STATE : Maharashtra
Bombay, dated the 5th September, 1989

AWARD

The Central Government by their order No. L-42011 (27)/85-D. II (B), dated 7-5-1987 have referred the following industrial dispute to this Tribunal for adjudication under Section 10(1)(d) of the Industrial Disputes Act :—

"Whether the demand of Central Institute for Cotton Research Employees Union (registered), Nagpur for regularisation of all Casual Labours who have completed of 240 days service from the date of completion of that period is justified? If yes, to what relief are they entitled to?"

2. The notice of the reference in question was duly served on the Working President, Central Institute for Cotton Research Employees Union, Nagpur thrice. Even then nobody appeared on behalf of the Union, and no statement of claim has been filed by anybody on behalf of the Union. The management of Central Institute for Cotton Research filed their written statement (Ex. 2) raising certain preliminary objections. According to the management of the Institute, no industrial dispute exists between the parties and the provisions of the Industrial Disputes Act do not apply to the facts of the present case.

3. The Administrative Officer of the said management filed his affidavit (Ex. 3) in support of the contentions of the management.

4. In the absence of statement of claim on record, and in the absence of anything on the contrary on record, I find that the demand in question of the Union is not justified, relaying upon the preliminary objection raised in the written statements and the statements made by them in the written statement as well as in the affidavit. Hence the following award is passed.

AWARD

The demand of the Union in question is not justified.

The parties to bear their own costs of this reference.

P. D. APSHANKAR, Presiding Officer.

[No. L-42011/27/85-D. II (B) (Pt.)]

का.आ. 2834:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार नार्थ ईस्टर्न रेलवे लखनऊ के प्रबन्धतंत्र के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को प्राप्त हुआ था।

S. O. 2834.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of North Eastern Railway, Lucknow and their workmen, which was received by the Central Government,

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 122 of 1988.

In the matter of dispute between :

The Divisional Railway Manager, N.E. Railway, Lucknow,

AND

The General Secretary, Purvottar Rly. Shramik Sangh, 6 Naveen Market, Kalsarbagh, Lucknow.

AWARD

The Central Government, Ministry of Labour, vide its Notification No. L-41012/81/87-D.II(B), dated 30-9-1987,

has referred the following reference to this Tribunal for its adjudication :—

"Whether the Divisional Railway Manager, N. E. Railway, Lucknow, was justified in terminating the services of Shri Hanuman son of Babu Lal, Gangman under P.W.I. Bahraich w.e.f. 15-2-1985? If not to what relief the concerned workman is entitled?"

2. The industrial dispute on behalf of the workman has been raised by the General Secretary, Purvottar Railway Shramik Sangh (hereinafter referred to as Sangh), Lucknow. The case of the Sangh is that the workman had worked as scale rated casual labour from 16-3-1977 to 15-2-1985, w.e.f. 16-2-1985, his services were illegally terminated without payment of his wages for the period 15-1-1985 to 15-2-1985 and retrenchment compensation. Besides the management, at the time of termination of his services, had retained persons who were junior to the workman. Between the period 15-2-1985 and 16-1-1984 the workman had worked for more than 240 days. The Sangh, has therefore, prayed that the workman be reinstated with back wages including wages for the period 16-1-1985 to 15-2-1985.

3. The management plead that the workman had worked from 16-3-1977 to 15-1-1982 under PW-1 (BNZ). He was given scale rate of Rs. 200-250 on 16-2-1981. He absented himself during the period 19-10-1981 to 15-1-1982. He was then transferred to work under PW1/R/PLK from 16-1-1982 and there he worked from 16-1-1982 to 2-8-1982. On completion of relaying work under PW-1/R/PLK, he was transferred from there to PW-1/BRK, where he worked from 16-8-1982 to 3-3-1983 in the time scale of Rs. 200-250. Thereafter, he absented himself without any information to the railway administration and remained absent till 15-1-1982. On account of long spell of 654 days unauthorised absence his services stood terminated. He was again appointed as daily rated casual labour at Rs. 7.50 paise per day on 16-1-1985. He worked upto 15-2-1985. He was paid his wages for the period 16-1-1985 to 15-2-1985 on 16-2-1985. Since, he was appointed as a daily rated casual workman on 16-1-1985, there does not arise the question of any retrenchment compensation. Similarly the question of any junior having been engaged in the present case does not arise. The reference should be answered against the Sangh.

4. In the rejoinder, the Sangh has reiterated that fact that the workman had worked from 16-3-1977 to 15-2-1985.

5. In support of its case, the Sangh has filed the affidavit of the workman with copy of the casual labour card and in support of their case, the management have filed the affidavit of Wajir Prasad, Asstt. Engineer NER Bahraich at Lucknow.

6. From the pleadings it appears that the Sangh has raised 3 points on behalf of the workman. They are :—

1. That the workman has not been paid wages for the period 16-1-1985 to 15-2-1985;
2. That the workman had worked for more than 240 days during the period 16-2-1984 to 15-2-1985; and
3. That while terminating his services the management retained the services of the juniors.

Let us consider all these points one by one.

Point No. 1 :

7. In para 2 of his statement in cross-examination, the workman has admitted that he has been paid wages at the rate of Rs. 7.50 paise per day for the period 16-1-1985 to 15-2-1985. Hence, point No. 1 is decided against the Sangh.

Point No. 2 :

8. In para 2 of his affidavit the workman has deposed that he had worked from 28-2-1982 to 3-3-1983, whereafter his services were terminated by PW-1 Bahraich without notice or notice pay and retrenchment compensation. In para 3, he has deposed that for the period 15-1-1985 to

15-2-1985, he was again taken on duty. In his cross examination he has very clearly stated that during the period 4-3-1983 and 15-1-1985 he was made to sit at home by the management forcibly. He has also stated that he made a written complaint about it to AE II and BRM, but no copy of such complaint has been filed by him.

9. The above evidence therefore, goes against the case set up by the Sangh that even during this period the workman had been in service. Since it has not been pleaded by the Sangh either in the claim statement or in the rejoinder that the workman made to sit forcibly from 4-3-1983 and since the copy of the complaint alleged to have been addressed by the workman to AE II and DRM has not been filed, it cannot be held that during the period 4-3-1983 to 15-1-1985 the workman was on duty. He was absent and his absence was unauthorised as has been pleaded by the management and corroborated by the management witness by his affidavit. Having not worked during this period he cannot be held to have worked for more than 240 days during the period 15-2-1984 to 15-2-1985. Hence, point No. 2 is also decided against the Sangh.

Point No. 3 :

10. Although the ground of sec. 25-G I, D. Act, has been taken by the Sangh in the claim statement as well as in the rejoinder, nothing has been said in this regard by the workman in his affidavit. Moreover, for the purposes of considering the question whether or not any person junior to the workman was retained in service while terminating the services of the workman, the date will be one on which he was given employment last time. From the claim statement it is evident that the last term of employment commenced from 16-1-1985. There is no evidence that any person engaged after 15-1-1985 had been retained in service. Therefore, point No. 3 is also decided against the Sangh.

11. Hence, from the above findings, I hold that the action of the DRM NER Lucknow in terminating the services of Shri Hanuman son of Shri Babulal was justified ?

12. The reference is answered accordingly.

Dated : 25-9-1989.

ARJAN DEV, Presiding Officer
[No. L-41012/81/87-D. II (B) (Pt.)]
HARI SINGH, Desk Officer.

नई दिल्ली, 17 अक्टूबर, 1989

का.आ.2835:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय रिजर्व बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अतुल्य में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपट को प्रकाशित करता है।

New Delhi, the 17th October, 1989

S.O. 2835.—In pursuance of section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Govt. hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the annexure, in the industrial dispute between the employers in relation to the management of Reserve Bank of India and their workman.

ANNEXURE

BEFORE SRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,
DEOKI PALACE ROAD, PANDU NAGAR, KANPUR

Industrial Dispute No. 48 of 1987

In the matter of dispute between .

The Secretary,
Reserve Bank of India Employees Association,
Reserve Bank of India Building, The Mall,
Kanpur, U.P.

AND

The Manager,
Reserve Bank of India,
The Mall, Kanpur, U.P.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-12011/46-86-D.II(A) dated 5th May, 1987, has referred the following dispute for adjudication to this Tribunal :

Whether the action of Reserve Bank of India in recovering three days wages from more than 180 Class III Employees is fair, legal and justified ? If not, to what relief are the concerned workmen entitled

2. With the reference order list of workmen is not annexed. However, from the pleadings of the parties it appears that the affected workmen are 178 in number. The industrial dispute on behalf of these workmen has been raised by Secretary, Reserve Bank of India Employees Association, Kanpur. (Hereinafter referred to as RBIEA). The pleadings of the parties are more in the nature of thesis. They contain reference to rulings and are also repetitive of certain facts. The claim statement runs into 41 pages with annexure consisting of 9 pages, the written statement runs into 16 pages with annexures and the rejoinder filed by RBIEA runs into 49 pages. While referring to the pleadings of the parties I shall confine myself only to the relevant facts.

3. The case set up by RBIEA is that Kanpur Branch of the Reserve Bank of India (hereinafter referred to as RBI) consists of Issue Department and Banking Department and it has more than 2000 employees at its strength. The relationship between the management and the employees is governed by Reserve Bank of India (Staff) Regulation, 1948, and various administrative circulars issued from time to time by the management. The RBIEA alleges that there had been no total strike, stay in strike or go slow on 26th, 29th and 30th April, 1982, by the employees of RBI, Kanpur. However, the management picked up names of certain employees arbitrarily, and deducted from their salaries wages for one or more of these days probably in August, 1982. The management realising that the deductions had been made illegally refunded the money so deducted to the workman concerned probably on 28-5-84. However, all of a sudden from February, 1986, the management started again deducting the wages for one or more of the above mentioned dates in respect of 178 employees as shown in annexure I to the claim statement illegally, arbitrarily and in contravention of Reserve Bank of India (Staff) Regulation, 1948 and various Administrative Circulars, and Sec. 33 and other provisions of I.D. Act, 1947. Before making these deductions, the management should have held a departmental inquiry in accordance with the principles of natural justice or taken action for recovery of damages for any alleged breach of contract. The employees of the Bank are neither piece rated employees nor are they daily rated workmen. They are permanent employees of the bank and in view of their service contract they are entitled to fixed monthly pay. Therefore, piece meal deductions should not have been made by the management. The RBIEA has, therefore, prayed that the amounts so deducted from the salaries of the affected workmen should be ordered to be refunded to them.

4. The management admits that two main departments of Reserve Bank of India Kanpur are Issue Department & Banking Department. The management also admits that the relationship between the management and employees is governed by RBI (Staff) Regulation, 1948, and various Administrative Circulars Issue by the management from time to time under section 7(2) of R.B.I. Act, 1934.

5. The management pleads that the Dighe Award gave the management the right to raise the quota of each category of Coin Note Examiner in Cash Deptt. by 15 per cent subject to their studying the position and making further changes by following appropriate procedure. Therefore, the management increased the quota of work of Coin Note Examiners by 15 per cent w.e.f. 12-4-82 under the said award. However, the employees of the Bank refused to do the work as per increased quota whereupon the management had to take action against certain employees by way of disciplinary proceedings leading to suspension or dismissal at various places. As a result of that RBIEA Kanpur by means of circular No. 25/82 dated 27-4-82, 27/82 dt.

29-4-82 and 28/82 dt. 30-4-82 gave a call for stay in strike to the Employees for 26th, 29th and 30th April 1982. Copies of these circulars are annexures D-1, to D-III to the written statement. The stay in strike resorted to by certain employees of the bank being outside the scope of agitational activity, the management resorted to wage cuts on the principle of No Work No Pay. However, after the agitation was called off and normalcy was restored, the management with a view to restore good industrial relations undertook to discuss the question of suspension/dismissal and other related issues arising out of the agitation resorted to by All India Reserve Bank of India Employees Association. As a result of discussion an agreement was reached on 29-12-1983 between the parties whereunder it was agreed that without prejudice to the rights and contentions of the parties, the dismissed/suspended employees would be taken back in the service subject to other conditions stipulated in the agreement. Copy of the agreement is Annexure A to the written statement. As a follow up measure further talks were held in Bombay in between the management and the representatives of All India Reserve Bank of India Employees Association on 17th and 18th January, 1984 and an understanding in the form Annexure B to the written statement was arrived at between the parties. It was agreed that where the staff were not allotted the work or not allowed to attend office by the bank, the wage cuts effected would be restored. It was further agreed that wage cuts effected would not be restored in respect of the employees who did not do the allotted quota of work or refused to do any work. Subsequent to the above understanding, due to misinterpretation of the terms of the understanding the Kanpur Office of the bank restored wage cut for all days including day of declared strike on 26th, 29th and 30th April, 1982. However, when the error committed came to the notice, the bank against recovered the amount paid wrongly to the employees. In order to avoid any hardship to the employees, it was decided to make recoveries in suitable instalments. In the circumstances and in view of the above understanding it is not open to RBIEA to make an issue out of the wage cuts effected by the bank for these three dates. No notice at all was necessary for rectification of the said mistake. Further the management were not bound to take disciplinary action against the employees who had interrupted the work on the above three dates. It was in the discretion of the management to initiate or not to initiate disciplinary proceedings against the workmen besides effecting wage cuts. The wage cuts made by the management does not amount to any punishment. Thus the RBIEA has no case at all.

6. In the rejoinder, it is alleged by the RBIEA that the workmen concerned were not on strike. They attended their duties on these 3 dates. They never refused to carry out any order whatsoever given to them by their Staff Officers. The management did not act fairly when they again resorted to wage cuts for these 3 dates in respect of 178 workmen, named, in the annexure to the claim statement without obtaining even any written explanation from these employees. The other facts alleged are mere reiterations of the facts alleged in the claim statement in one form or the other.

7. In support of their respective cases both the sides have led oral as well as documentary evidence.

8. Ext. M-IV, M-V and M-VI are circular nos. 25/82 dated 27-4-82, 27/82 dt. 29-4-82 and 28/82 dt. 30-4-82 respectively issued by the Secretary, RBIFA, Kanpur. They are all addressed to the members of the association. The first circular is on the 16th day of struggle against increased work April, is on the 16th day of struggle against increased work load/computerisation/mechanisation and the other two circulars are for observing stay in strike on 29th and 30th April, 1982. From the first circular it also appears that there was a call for stay in strike even on 26th April, 1982. Whether the strike was legal or illegal, we are not concerned with it because of the fact that subsequently there was a reproachment between the parties.

9. Ext. M-1, is the copy of letter dt. 30-12-83 from the Chief Officer, Personnel Policy Department Reserve Bank

of India Bombay to the Manager, RBI Kanpur [New Delhi] giving the text of the agreement dt. 29-12-83 arrived at between the management and All India Reserve Bank of India Employees Association. I need not refer to these terms of the agreement. The most important document is Ext. M-2 which is the gist of discussion held on 17-1-1984, between the management and the All India Reserve Bank of India Employees Association and the decision arrived at between them. Part 1 relates to disposal of disciplinary cases and Part 2 relate to restoration of wage cut effected during the period of agitation. Clauses (a) & (b) of Part II read as under :—

- (a) Where the staff were not allotted the work or where not allowed to attend the office by the bank during the last Class III agitation regarding quota increase as per Dighe Award the wage cuts effected would be restored. As regards wage cuts effected for the lunch time demonstrations, the same would be restored.
- (b) Wage cuts effected, for not doing the allotted quota of work or refusal to do any work or for days of declared strike, would not be restored.

Thus the above two clauses referred to cases where wage cuts would be restored and where they would not be restored. By means of clause (b) the management was vested with the right not to restore wage cuts effected in respect of those employees who did not do the allotted quota of work or refused to do any work.

10. In para 5 of the written statement, the management have pleaded that subsequent to the understanding reached with the representatives of All India Reserve Bank of India Employees Association, the wages were to be restored in terms of the understanding. However, due to misinterpretation of the terms of 'Understanding' the Kanpur office of the Bank had restored wage cuts for all days including days of declared strike on 26th, 29th and 30th April, 1982. The same fact has been stated by the management in para 8(xxix). In para 8(xxx), the management have pleaded that since the restoration of wage cuts for the days of declared strike was an error, the bank was fully justified in recovering the amount paid erroneously. According to the management vide para 8(x), no separate notice was required to be given to the employees in respect of which wages cuts were effected subsequently. During the course of arguments it was candidly admitted by the authorised representative for the management that wage cuts were restored in respect of 178 workmen involved in the present reference erroneously. From the joint inspection report dt. 11-11-88, it is evident that in respect of these 178 workmen wage cuts in respect of the days of strike was again made from Feb., 1986 onwards.

11. The question is whether having failed to exercise their right in terms of document no. Ext. M-2, the management was or was not competent to effect recovery over again. I may state here that no document has been filed by the management to show that while restoring the wage cuts of these 178 workmen it was made clear that it was being done without management's right to recover the amount again on being found that they had participated in the stay in strike on one or more of 3 days mentioned above. No document has also been filed to show that while making wage cuts over again, the management issued any circular administrative order that earlier wage cuts had been restored erroneously. In the circumstances I fail to understand how the management became entitled to effect wage cuts over again after they had exhausted their rights under agreement dt. 17-1-1984, contained in the document copy ext. M-2. The action of the management could have become valid even if while making wage cuts over again they had determined the question of the participation of these workmen in the strike in accordance with the principles of natural justice.

12. The management has led evidence to show that these 178 workmen were fact an stay in strike on days on which wage cuts have been made from their salaries. To me the evidence so led by the management is of no conse-

quence. Certain rights followed to the management in terms of document copy Ext. M-2, and having exercise their right, the management would not have exercised the same right over again unless there has been a subsequent agreement between the parties concerned giving right to the management to effect wage cuts after determining the question as to who were the employees who were on stay in strike on one or more of these dates.

13. Some law points have also been placed before the Tribunal by the authorised representative for the management. He has referred to the principle of No Work No Pay. He has also submitted that where the largest Union is a party to an agreement and bonafides of the Union are not in dispute, it will be a significant factor in favour of the settlement. He has also submitted that when a recognised Union of Major Worker negotiates with the employer individual workman do not come in picture. I may state that I have no dispute with these prepositions of law placed before the Tribunal by him. These prepositions of law would have been relevant in RBIEA has challenged the settlement referred to above. No doubt Shri Chauhan, authorised representative for RBIEA has expressed his disagreement with the law point No Work No Pay, I do not find any force in his submission.

14. Held, therefore, that the action of the Reserve Bank of India in recovering wages of 178 workmen named in joint inspection report dated 11-11-1988 is neither legal nor justified. Consequently, these 178 workmen are entitled to get back the amounts shown against their names in the joint inspection note.

15. Before parting with the reference I would like to observe that the conduct of RBIEA has not been above board. From the documents M-4, M-5 and M-6 it is clear that RBIEA claimed great success for the stay in strike and congratulated its member for participation in it, after the agreement reached honourably between the management and All India Reserve Bank of India Employees Association, in all fairness RBIEA should have been hold enough to give a list of employees, even without the asking of the management, who had been on stay in strike on one or more of these dates. But it seems that RBIEA lacked moral courage. Money (wages) seemed to be dearer to it than the cause and the present industrial dispute is a proof of it. It RBIEA, was of the opinion, that these 178 workmen had not been on stay in strike on any one or more of these days, it should not have espoused their cause on account of their having not honoured the call given by it to its members for stay in strike. By doing so it has lowered its image in the eyes of the public. Even now it is not too late. It can still come out with the truth and submit a list of those who were on stay in strike. It will build its image, enhance its prestige in the eyes of public and show the solidarity of its members. But I know that RBIEA will not do it. As earlier observed by me to RBIEA and its members not the cause but the money is more important.

16. Reference is answered accordingly.

ARIAN DEV, Presiding Officer

Dt. 21-9-1989.

[No. L-12011/46/86-D. II. A/IR. Bank I]

PADMA VENKATACHALAM, Dy. Secy.

नई दिल्ली, 17 अक्टूबर, 1989

का.आ. 2836 :- औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अन्वय में केन्द्रीय सरकार युनियन बैंक ऑफ इंडिया के प्रबन्धकों से संबंध नियोक्तों और उनके कर्मचारों के बीच अन्वय में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण अहमदाबाद के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को प्राप्त हुआ था ।

New Delhi, the 17th October, 1989

S.O. 2836.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Ahmedabad as shown in the Annexure in the industrial dispute between the employers in relation to the Union Bank of India and their workmen, which was received by the Central Government.

BEFORE SHRI N. A. CHAUHAN, INDUSTRIAL TRIBUNAL, AHMEDABAD

Reference (I.T.C.) No : 41/87

Union Bank of India, Ahmedabad

...1st Application

AND

its employees, 2nd Applicant.

Whether or not, Shri B. B. Shah, D. L. Jani and R.R. Sherdala are entitled to be reinstated in their substantive post in the Bank regarding of the...

Pleader Shril D. K. Thakar on behalf of the 1st applicant.

Pleader Shri D. H. Patil on behalf of the 2nd applicant.

AWARD

1. The present reference, the industrial dispute Act, 1947, here after which will be referred as Act, 1947, as per its Rules 10(2). The Government of India, Ministry of Labour vide its order No : L-12025/11/87-2(A), dated 31-7-87 had referred this industrial dispute between the applicants to the industrial tribunal appointed by the Government of Gujarat at Ahmedabad, the said reference has been allotted to me for adjudication.

2. The industrial dispute between the applicants which is to be adjudged, is as under, whether the 1st applicant, the Bank employees save Shri Bharat. B. Shah, Shri D. L. Jani and Shri T. R. Sherdala are entitled or not, to be reinstated in service with full pay for the left over period?

3. The concerned three employees had worked under the 1st applicant the Bank for many years as part time Pass-Book-Writers in the different branches of the Bank, situated in Ahmedabad city. Shri Shah from May 1965 in Delhi Chakla Branch, Shri Jani from June 1966 in Garhi Road Branch and Shri Sherdala from May 1968 in Museum Branch had been serving. In the begning these employees were used to be paid Rs. 51.35 as a basic pay. These after, the way, other, Bank employees got the rise in their pay and other allowance, in the same way the concerned employees pay was also raised proportionately taking into consideration the number of hours the performed duties, these employees also used to get the benefits of Dearness Allowance, House Rent, City Compensatory Allowance, Medical Allowance etc., an order dated 31-12-87 was issued terminating the services of the three concerned employees and these three employees were removed

from service, at that time preparation were being made to give one month notice or one month pay in lieu of notice and removal compensation money. Aggrieved of the said order, the three employees made representation through their union, that they have been terminated from services which is illegal for which the 1st applicant the Bank had agreed to refer this dispute before the tribunal and as stated earlier as per Act 1947, Rule or section 10(2), the consents of the applicants were received to refer the said dispute to the Tribunal for adjudication.

4. The concerned employees submitting the appeal of demand as per para-6 have stated that the work of pass book writing is not discontinued and at present also it is continued and this work is taken from the full time employees. The submission of appeal of demand of the 2nd applicant is, that the Act, 1947 case-5-B is applicable to the 1st applicant the Bank and as per this three months notice ought to be given before an employee is removed or in lieu of this 3 months pay ought to be paid and the reasons of removal ought to be stated and only after obtaining permission from the authority appointed by the Govt. the removal can be made, but, as the 1st applicant the Bank has not taken the said steps, as such the order of termination is illegal. The main representation of the concerned employees is, that, by removing them, the strength of the employees have been reduced which includes in the Act, 1947 Rule-(4) detail of which is in Nos : 10 & 11, even then, the 1st applicant the Bank did not inform about any charges of section 9(A) of the Act, 1947 as such, his order of removal is illegal as a result, the employees ought to be reinstated in their original posts w.e.f. the dates they were removed from service and the ought to be paid full pay for the days left over.

5. The 1st applicant the Bank, as per his written reply in para-11 in which the said demand has been opposed. The submission of the Bank is, that, the Act 1947, chapter 5-B is not applicable to the 1st applicant, as such, as per section 25-N it is not necessary to obtain permission of any one before the removal, similarly it is also not necessary to give notice of 3 months. But the 1st applicant the Bank had to act as per section 25-F and as per this rule the 1st applicant the Bank has done the removal the unwillingness was shown to pay to the concerned 3 employees along with the termination order the retrenchment compensation, similarly one month notice pay in lieu of one month notice, but except Shri Jani both the employees refused to accept the compensation money similarly the amount of one month pay. The special information of 1st applicant the Bank is, that the action of removal can not be as per detail Subject Nos 11 & 10 of schedule-4, as per such it is not necessary to give information of any amendments. The special information from the Bank is, that the strength of employees of Pass-Book-writer which existed in 1978 with a view to absorb that much full strength, of employees as full time, Pass-Book-writers, an examination was conducted, and these who passed and those employees who were wanted to continue as full time employees out of the concerned 3 employees Shri Jani could not pass the examination,

at the same time the concerned 3 employees had shown their unwillingness to work as full time clerks, as such they were not observed as full time clerks. In the year 1987 the concerned 3 employees who were left at Ahmedabad as part-time pass-book-writer as it was decided to discontinue the post of part time pass-book-writer. So their removal was done as per rules. Regarding removal, the action which was required to be taken as per, section 25-F was accordingly taken as such the concerned 3 employees are not entitled to be re-instated.

6. The 2nd applicant, out of the 3 concerned employees, Shri Sherdalal vide para-16 and Shri Shah vide Para-17 have cross examined in the favour of their demands where as the 1st applicant the Bank has examined has one officer Shrimati Rao vide para-20 over and above the Bank depends on Para-12 & 15 in his favour which has been submitted attached with the documents to prove.

7. Is there dispute between the applicant the concerned employees, similarly may employees were working as part time pass book writers under the 1st in different branches, the 1st application the Bank system of part time pass book writers and it was decided to discontinue these posts and those who were working as part time pass book writers, but these, as many as could be possible to be absorbed, with a view to absorb that many, for an examination was conducted there was a written examination, similarly an oral examination also in 1978 the strength of part time pass-book-writer was 21. After this examination except the 3 employees, 18 employees were absorbed as full time workers and the concerned 3 employees continued as part time pass-book-writers and on the day of 12-2-87 as per No. 12/1, 12/3, & 12/7 information of curtailment was communicated and the concerned 3 employees were removed from the same day itself. It was also informed to them that in lieu of one month notice which is required to be given for removal, they are paid month pay, similarly they are paid compensation of curtailment out of the three concerned employees, Shri D. D. Jani had accepted curtailment also one month pay in lieu of one month notice the readiness of which the Bank had made. The remaining two employees refused to accept the amount. As a result there is no dispute between the applicants regarding the same, or these three employees have been removed as 1st applicant the Bank is not in need of part time, pass-book-writers, before the removal as per Act, 1947 Section 25-F one month pay should be paid, according to the 1st applicant the bank is in readiness to give pay to the three employees, similarly before removal the employees should be paid curtailment compensation, the bank has also shown readiness to pay this curtailment compensation on behalf of the concerned three employees it has been challenged that the order regarding curtailment is illegal.

8. As a result, the tribunal is required to adjudicate, that, whether the order of removal dated 13-2-87, with regards to the concerned three employees is illegal or not? The first point raised by

the concerned employees is that, the chapter 5-B of the Act, 1947 is applicable to the 1st applicant the Bank, as per section 25-N, before the removal he was required to obtain permission from the concerned Government that is central Govt. but due to, not having obtained such permission this curtailment order becomes illegal. This of dispute demand, appeal has been put up, during the verbal, representation, Shri Patil has agreed that chapter 5-B of the Act, 1947 is not applicable to the 1st applicant the Bank and due to this, there is no need to obtain any permission from the central Government. As a result except central Government, the removal is otherwise justified in that case because of not having obtained permission this can not become illegal.

9. On behalf of the concerned employees the 2nd point is put up like this that the 1st applicant the Bank before this curtailment order did not give information of the amendment as required as per section 9-A of the 1947. Act and due to this, the curtailment order becomes illegal. In this, regards, the plea of Shri Patil is, that if the Bank wants to make any amendment of the statement given in Index-4 of the Act 1947, this, as per section 9-A, this type of amendments can not be made without informing the plea of Shri patil is that the type of amendment which the 1st applicant the Bank wants to make on removing the three employees regarding this it is mentioned in the Index-4 detail No. 10 and 11 as such before making these amendment, it was necessary to give information required under section 9-A, and as, information was not given, because of the removal of this three concerned employees is illegal, against this, the submission of Shri Thakar is, that the three concerned employees have been curtailed and Index-3, data 10 is applicable to this curtailment and under, this information is not required to be given as per section 9-A. As a result, the question is to be decided, that, as per section 9-A no information was given of the amendments, whether, because of this of removal of these three concerned employees is illegal or not?

10. Shri Patil, in defence of his submission has given the citation of the supreme court judgement and depends on this "Food Corporation of India and their employees" of civil appeal No. 1055/81, the judgement has been published in L.L.J. 1985, Volume-II page No. 52, Shri Patil depends upon the judgement of supreme court "Hindustan Lever Ltd. verses Rani Mohand Rai and other" in the civil appeal No. 675-681/1926 and 1959/71 this judgement has been published in the A.I.R. 1975 page No. 1156 against this Shri Thakar depends upon the supreme court judgement 'L. Rabort D'Souza V/S Executive Engineer Southern Railway' civil appeal No. 1613/79 this judgement has been published in A.I.R. 1982 supreme court page No. 854. In this judgement it has been clearly stated that, if the service ends due to curtailment then the section 9-A the information was not given due to this the curtailment can not to be made illegal.

11. The judgements which have been cited by Shri Patil it has not been clearly stated that, before curtailing the jobs it is necessary give information as required under section 9-A. In the para-21 the said judgement on which Shri Patil depends, is that the

supreme court has declared that as per the provisions in, as per section 9-A the owner is bound that if it is required to make amendment of the details mentioned in the Index-4. The information of such amendment is required to be given. There after the supreme court has not there Rules, as such the amendments which are made, the amendments as per section 9-A the information of their amendments is not required to be given this has been agreed upon. But, from this decision of the supreme court it cannot be also said that if the curtailment has been made, but that time only he information is required to be given. Here it is required to be noted that, it is mentioned in the Index 3 detail 10 regarding the curtailment where as is the index detail-10 it is mentioned regarding the possibility of curtailment for this doing the rationalisation and it is mentioned regarding the requirement of the increase or decrease of the strength of labour of shifts. In this also, the concerned employees are clearly told that as post of part time pass-book-writers have been closed, so they have been curtailed by closing the part time pass-book-writers the Bank has done the rationalization it can not be said so.

12. The 2nd judgement upon which Shri Patil depends is as under, that, the workers who were in the 1st real were compelled to work in the 2nd pay scales and from this, the supreme court, can be the conclusion that the terms and condition of the workers have been changed. If the jobs workers or employees are curtailed, then there remains no concern between the owner and the servant, as such there is no question of making charges with regards to jobs that is why the how matters have made no mention regarding the curtailment in the 4th index, but it is included in the 3rd index. As per index-3 it is not required to give any information as per section 9-a as stated, earlier, there is a provisions, of curtailment as per section 25-F has not been, Acted upon. This has not been said so even then, the information which was given from this, it is clear that the Bank had shown his readiness to give one month's pay in lieu of notice period, and taking into consideration the length of their service, the Bank had shown its readiness to pay compensation for the curtailment of the jobs. As a result, the said orders of curtailment are illegal, it can not be said so, it does not appeal that there is any substance in representing that as a result it is illegal of by not giving information of the curtailment as per section 9-A.

As a result that the curtailment of the three concerned employees which has been done is legal. Here it is necessary to note that when the Bank had taken decision to discontinue the jobs of part-time pass-book-writers, the workers who were working as part-time pass-book-workers will review that they should not be put into hardship, for that sake, the limitless effects were made to abolish them. In 1978, when the Bank had taken this decision, at that time 21 were working as part time pass book writers, out of which except Shri Jani the remaining 20 had passed the written examination and except the concerned employees the remaining 17 employees were absorbed as full time workers. Before us the question is that out of the three concerned employees, why Shri Shardaial and Shri Shah were not absorbed? In this regard the Bank has the submission that Shri Shardaial

Shri Sha were also ready to be absorbed as full time workers, but both these employees were not willing to work as full time workers it was said so, that is why they were not absorbed as full time workers and both these and also Shri Jani up till then continued as part time pass book writers and under those circumstances up to 1987 they continued as part time pass book writers. Shri Sherdalal and Shri Shah do not admit by their own tongue that they had given their consent not to remain as full time worker but Shri Rao one of the Bank Officer who conducted the oral test, has been examined at para 20 and the necessary documents of the oral test have been submitted with para 15, for this it appears that Shri Shah and Shri Sherdalal were interested in the job of part time pass-book writers and the same enforcement has been made in the interview from. In this regard Shri Rao has not been cross examined. There is no reason for Shri Rao to tell lie. As a result the plea of the Bank that Shri Sherdalal and Shri Shah had no interest to accept the job of full time worker and were not ready for the same, as such they were not absorbed in service in year 1978, there is no reason to disbelieve this. Here it is necessary to note that nearest relatives of both these persons were doing private business and during free time both these persons were looking after the work of Business this has been admitted by them, under these circumstances it is but natural that they would not be willing to work as full time worker at that time. As a result the proofs which Bank has submitted against these 3 employees is malafide job, this can not be said so. The Bank has given chance for these three employees also to be absorbed them as full time worker. Shri Jani failed in the test, where as Shri Sherdalal and Shri Shah had passed this test, but during oral work test they informed that they are not interested in the job of full time worker and because of this they were not absorbed as full time workers in the 1978 and it can be believed, they were continued as part time pass book writer as far as it is possible to keep. As a result any injustice has been done to the concerned employees this can not be said so. Their demand is that they should be reinstate in Bank service, it can not be accepted because the job of part time pass book writer have been discontinued out of this, Bank was in readiness in the year 1978 to absorb them as full time workers. but this did not suit them. The third employees had not succeeded in the examination as a result to reinstate with full pay for the left over days these three concerned employees have no right to claim this because the curtailment which has been done is justifiable. But, here it is require to be clarified that, Shri Shah and Shri Sherdalal were communicated at the time curtailment that the amount which were due in lien curtailment notices and as compensation for curtailment was given to them, which, they had not accept this amount, the Bank is bound to pay this amounts. As a result with regards to this reference the under mentioned order is issued.

ORDER

14. The demand of the concerned 3 employees to reinstate them in service with full pay for the left over period this demand is not accepted but it is

clarified were that out of his concerned 3 employees Shri Shah and Shri Sherdalal, the amount regarding curtailment for which Bank had shown its willingness to pay and this amount was not accepted by them, but this amount Bank will be bound to pay demand by them. In view of the special circumstances, the expenditure on this reference will be born by each applicant them rules.

G. J. Dave,
Secretary,
Ahmedabad,
Dated 27-1-89.

NARAYAN SINGH, Central Industrial
Tribunal

[No. L-12025/11/87-D.II(A)]

नई दिल्ली: 23 अक्टूबर, 1989

का.आ. 2837.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 11) की धारा 17 के अनुसार, में केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबन्धन के संबंध निरोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपद को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

New Delhi, the 23rd October, 1989

S.O. 2837.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the Central Bank of India and their workmen, which was received by the Central Government.

BEFORE SHRI ARJAN DEV PRESSIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 29 of 1988

In the matter of dispute between :

Shri R B Rai
C/o Shri O P Nigam
UPBE Congress
295/387 Deen Dayal Road
Asharabad, Lucknow, U.P.

AND

Regional Manager
Central Bank of India
Lucknow U.P.

AWARD

1. The Central Government, Ministry of Labour, vide its notification no. L-12012/444/87-D.II(A) dt. 17th March, 1988, has referred the following dispute for adjudication to this Tribunal :

“Whether the action of the management of Central Bank of India in dismissing from service Shri R. B. Rai w.e.f. 29-12-84, is justified? If not, to what relief is the workman entitled?”

2. The admitted facts of the case are that while the workman was posted as Assistant Cashier-cum-Godown Keeper, he was served with chargesheet dt. 30-1-1981, on 9-2-1981. The charge was that on 16-5-77, one Shri Jagdeo Bahar opened a HSS Account, in B. O. Keoti, Distr. Balia with Rs. 2300/- Accounts opening form and paying slip etc., were filled on his behalf by the workman. Shri Jagdeo Bahar reported to the bank that the workman had not handed over to him the original Pass Book. Instead of it the workman handed over to him a simple diary of the size of the Pass Book with a credit entry of Rs. 2300/- covered with usual plastic cover meant for bank Pass Book and retained the original Pass Book with him. Hereafter, on 14-11-77, 16-11-77, 23-11-77 and 1-12-77 the workman took out Rs. 1000/-, Rs. 1000/-, Rs. 200/- and Rs. 50/- respectively from the said account of Shri Jagdeo Bahar fraudulently. Thus the workman committed gross misconduct within the meaning of para 19.5 (j) of the Bipartite Settlement. The Enquiry Officer, found the charge as proved. Agreeing with the findings given by the E.O., the Disciplinary Authority awarded the workman the punishment of dismissal from service by his order dt. 22-12-84. The workman filed an appeal against the said order of punishment, but the same was dismissed by the appellate authority.

3. The workman's case is that he was suspended on 17-1-1981, in contravention of paras 19.11 and 19.12 of the Bipartite Settlement. Further in order to harass him, the disciplinary authority adopted delaying tactics. He changed 3 Enquiry Officers and one or two management representatives during the course of inquiry. Inquiry proceedings were concluded on 16-5-1984. It was properly held w.e.f. 21-4-82. He was not even found served with complaint against him. Not only that the enquiry was not conducted by the B. O. in accordance with the principles of natural justice and in accordance with various provisions of Bipartite Settlement. Finding given by the E. O. are not based on legal evidence. Lastly he has pleaded that the punishment awarded to him is quite disproportionate to the kind of misconduct alleged to have been committed by him.

4. The management plead that no illegality was committed while passing the suspension order. The management deny that delaying tactics were adopted by the disciplinary authority during the inquiry proceedings. It was finished at the earliest. Inquiry was conducted fairly and properly in accordance with the principles of natural justice. The management deny that the findings are not based on evidence. The management further deny that punishment awarded to the workman is disproportionate.

5. According to the management, the bank had received a complaint against the workman from Shri Jagdeo Bahar that the workman had committed a fraud of Rs. 2250/- in respect of the amount deposited by him while opening the account. Earlier to suspension the workman was served with a memo dt. 17-10-1979 which was replied by the workman after two months. Since

his reply was not found satisfactory, an order for making investigation was made and during the investigation it was found that the workman was involved in the fraud. Therefore, the management decided to initiate departmental inquiry proceedings against the workman. In the circumstances, the workman is entitled to no relief.

6. In support of its case, the workman has filed his own affidavit and a number of documents. On the other hand, in support of their case, the management have filed the affidavit of Shri S. K. Jain, Regional Manager, and a number of documents.

7. In this case, Shri O. P. Nigam, the authorised representative for the workman, has pressed three points. They are—

1. That the findings given by the E.O. are not based on legal evidence ;
2. That the punishment awarded by the disciplinary authority is disproportionate to the charge proved ; and
3. That there had been a considerable delay in the conduct of the inquiry.

Let us consider the above points one by one.

8. Point No. 3 :

The charge sheet is dated 30-1-1981 and it was served on workman on 9-2-1981. In para 7 of his claim statement, it has been alleged by the workman that actually the inquiry was properly held w.e.f. 21-4-82. It appears from the documents filed by the management that during the inquiry proceedings, two E.O. were changed. The First Enquiry Officer, was Shri P. K. Dass and the second E.O. was Shri A. L. Chaturvedi, who as will be evident from the Enquiry Report retired during the inquiry proceedings. He held inquiry on 5-11-1981 6-11-87, 7-11-81 1-12-81, 2-12-81 3-12-80 18-11-81. The Third Enquiry Officer was Shri J. K. Tondon, who started proceedings from 21-4-82. In the circumstances, it cannot be argued that there had been any deliberate delay in the conduct of the inquiry by the management. The point no. 3 is decided accordingly.

9. Point No. 1 :

It has been contended by Shri Nigam, the authorised representative for the workman that the findings recorded by the E.O. Shri J. K. Tondon, are not based on legal evidence. For consideration of the point raised by Shri Nigam, it has to be borne in mind that the Tribunal has not to examine the evidence as a Court of appeal and further in a departmental inquiry the charge is to be proved not in a manner in which it has to be proved in a criminal case i.e., to say the charge is not to be proved beyond reasonable doubt.

The Tribunal has to see whether or not an ordinary prudent man could have taken the view which the E.O. as taken of the evidence adduced before him by both sides. I have gone through the evidence recorded during the proceedings carefully and find that there is no force in the submissions made by Shri O. P. Nigam. The E.O. has taken a reasonable, rather a rational view of the evidence adduced before him by the parties.

10. While appreciating the evidence we will have to keep in mind that Shri Jagdeo Bahar, the account holder is an illiterate person who only knows how to make his signatures. There is no dispute about the fact that all the connected papers with the opening of the account were filled by the workman.

11. It is in the evidence of Shri Jagdeo Bahar that at the time of opening account he dealt with only the workman to whom he did not know from before and no other official of the bank. It is a case, where the workman has not come in the witness box to controvert the evidence given by Shri Jagdeo Bahar. As regards expert evidence it is well settled law, that it is a very weak type of evidence. It is to be judged on anvil of circumstances. It is also not necessary that the manager should have been believed on each and every point deposed to by him as has been done by the E.O. A witness can be believed on all the points deposed to by him or on some of the points deposed to by him or he may be totally disbelieved. What the E.O. has to see is whether the evidence of a particular witness gets support from circumstances appearing in the evidence or not. It, therefore, the E.O. has disbelieved the Manager on some of the points, he has not committed any error. On going through the finding and evidence I find that whenever, E.O. has not relied upon the evidence of the manager, he has done so for cogent reasons. I may state here that the finding recorded by the Enquiry Officer runs into 46 pages.

12. The Enquiry Officer, has, on the basis of evidence, rightly held that original pass book was not delivered by the workman to Shri Jagdeo Bahar whom he simply gave a simple diary or pass book size with a entry of credit of Rs. 2300/- in a usual plastic cover meant for bank's pass book. This is a strong piece evidence against the workman showing his bad intention. Therefore, there is every possibility of his having obtained the signatures of Shri Jagdeo Bahar even on withdrawal forms on the day of the opening of account with a view to defraud him of the money. From the side of the workman it was argued that the whole thing had been concocted against the workman at the instance of the Branch Manager. During the course of arguments, Shri Nigam, could not show me from the evidence recorded before the E.O. that the Branch Manager bore any enmity or was enmical to the workman. It has also not been pointed to me during the course of arguments by Shri Nigam, that even Shri Jagdeo Bahar, had any enmity with the workman. From the evidence of Shri Jagdeo Bahar, it appears that it was for the first time in his life that he had come to the bank to open the account. He has specifically stated that he had no talk with the manager on the day on which he opened the account in the bank. Hence, I find nothing to infer that the finding given by the E.O. is either perverse or is not based on evidence.

13. Point No. 1 is decided accordingly against the workman.

Point No. 2:

14. The question is whether the punishment of dismissal from service awarded to the workman is

disproportionate to the offence committed by him. I don't think it is disproportionate. In banking transaction creation of confidence in the mind of the customer about his account being properly dealt with is a must. In those who man the banking industry loses the trust reposed to by the customer, the customer will not like to have any further transaction with the bank and he would even speak ill of the bank to others and ask them not to open an account or keep an account in such a bank. The bank's reputation is greatly affected by misconduct of an official of the bank in such cases. I don't feel that the workman is a fit person to be retained in the service of the bank. The punishment awarded is accordingly held as not disproportionate, to the kind of misconduct with which he was charged.

Point no. 2, is decided accordingly.

15. In view of the findings recorded above, it is held that the action of the management of Central Bank of India, in dismissing from service Shri R. B. Raj, w.e.f. 29-12-84, is justified.

16. Accordingly, the workman is held entitled to no relief.

17. The reference is answered accordingly.
Dated : 27-9-87.

ARJAN DEV, Presiding Officer.

[No. L-12012/444/87-D.II(A)]

का.आ. 2838:--औद्योगिक विवाद अधिनियम 1947 (1947 का 14) का धारा 17 के अनुसरण में केन्द्रिय सरकार सेंट्रल बैंक ऑफ इण्डिया के प्रबन्धन के संबंध निराशकों और उनके कर्मचारों के बीच अनुबंध में निर्विष्ट औद्योगिक विवाद में केन्द्रिय सरकार औद्योगिक अधिकरण, नं. 2 धनबाद के संघट्ट का प्रकाशित करता है जो केन्द्रिय सरकार को प्राप्त हुआ था।

S.O. 2838.--In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Dhanbad as shown in the Annexure in the Industrial dispute between the employers in relation to the Central Bank of India and their workmen, which was received by the Central Government.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri I. N. Sinha, Presiding Officer.

Reference No. 54 of 1988

In the matter of an industrial dispute under Section 10(1)(d) of the I. D. Act, 1947.

PARTIES :

Employers in relation to the management of Central Bank of India,

AND

Their workmen.

APPEARANCES :

On behalf of the workmen--Shri S. N. Singh, Union Official.

On behalf of the employers--Shri K. K. Bhattacharjee, Chief Officer.

STATE : Bihar.

INDUSTRY : Banking

Dhanbad, the 20th September, 1989

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-12012/471/87-D.II(A), dated, the 21st March, 1988.

SCHEDULE

"Whether the action of the management of Central Bank of India in not giving effect of back date conversion from Clerk to Agricultural Asstt. with effect from 16th February, 1984 to Shri N. P. Sinha and thus depriving him to appear in the test for promotion to the post of Agr. Finance Officer held on 28th April, 1985 is justified? If not, to what relief is the workman entitled?"

The case of the workmen is that the concerned workman Shri N. P. Sinha was appointed as Accounts Clerk in the Central Bank of India and he joined his service on 20th July, 1974. He is a B.Sc. (agriculture) and had passed the examination in the first division in 1973. There was a provision of appointment of agricultural assistant in Central Bank of India from amongst the candidates who were Agricultural graduates. Subsequently there was an amendment in the aforesaid provision and according to the amended provision the other employees in the Clerical cadre were also eligible for their conversion as agricultural Assistant as it was difficult to get the required number of agricultural graduates through the Banking service recruitment Board to be posted as Agricultural Assistants in the Bank. The concerned workman was selected as Agricultural Assistant and an order of posting dated 4th April, 1984 was issued to him for joining as Agricultural Assistant at Goreya Kothi branch. S/Shri Mahesh Pandey, Sawalia Pd., K. L. Srivastava were also selected along with the concerned workman and those 3 were posted as Agricultural Assistant at different branches of the Central Bank of India. The effective date of their selection/conversion in the post of agricultural assistant was 16th February, 1984 to all 4 persons stated above. The place of new posting as Agricultural Asstt. was not convenient to the above mentioned four persons and hence they did not join the place of their posting as mentioned in the letter of their appointment dated 4th April, 1984. The concerned workman also did not join the place of posting at Goreya Kothi branch. The concerned workman made a representation for change of his place of posting. The Zonal Manager, Central Bank of India, Patna Zone changed the place of posting of the three persons namely S/Shri Mahesh Pandey, Sawalia Pd. and K.L. Srivastava but the place of posting of the concerned workman was not changed and his representation was kept in abeyance. The 3 other persons other than the concerned workman joined as Agricultural Assistant to their changed place of posting. The place of posting of the concerned workman was finally decided on 31st January, 1985 and it was communicated to Betia branch on 9th February, 1985 where the concerned workman was posted and on his being relieved on 26th February, 1985 he joined Bairaia Branch on 27th February, 1985. Shri Sawalia Pd., Agricultural Assistant was posted at Bairaia Branch and on his representation Shri Sawalia Pd. was posted at Goreya Kothi branch and thereafter Shri Sawalia Pd. joined at Goreya Kothi branch and the representation of the concerned workman was allowed and he joined at Goreya Kothi branch in place of Sawalia Pd. In changing the place of posting of the concerned workman, the management relitified the effective date of his conversion from 16th February, 1984 to the date of his joining the post as per letter dated 31st January, 1985. The effective date of conversion to Agricultural Asstt. of the other 3 persons was not changed or rectified although they had also not joined at the place of their first posting in the district of Purnia. The change of effective date of conversion in the case of the concerned workman was arbitrary, discriminatory and in violation of the principles of natural justice. The concerned workman made a representation to the management challenging the illegal change of date of his conversion to Agricultural Assistant but the same was not considered by the management.

A notice dated 4th February, 1985 was issued in all the branches in Patna Zone of the Bank for promotion to the post of Agricultural Finance Officer and applications were invited for appearing at the ensuing promotional process.

The said notice was partially modified under Zonal Officer letter dated 28th February, 1985 according to which all Agricultural Assistants who had put in one year actual continuous service as on 28th February, 1985 reckoned from the date of publication were eligible to apply for appearing at the examination to the post of Agricultural Finance Officer. The concerned workman applied in terms of the aforesaid notice along with S/Shri Mahesh Pandey, Sawalia Pd. and K. L. Srivastava for appearing in the proposed written test for the said promotion under letter dated 8th April, 1985 of the Chief Manager to the Regional Office, Siwan from which it was found that the Agricultural Assistant including the concerned workman and other 3 persons were not eligible to participate in the ensuing promotional process on the ground that they had not completed actual continuous service of one year as on 28th February, 1985. The concerned workman as well as the other 3 Agricultural Assistants were converted to the post of Agricultural Assistant with effect from 16th February, 1984 and on those assumption they filed applications for appearing at the ensuing test examination for the promotion of Agricultural Finance Officer. The management ignoring their letter dated 8th April, 1985 allowed S/Shri Mahesh Pandey, Sawalia Pd. and K. L. Srivastava to appear in the aforesaid written test held on 28th April, 1985 and the concerned workman was denied this opportunity to appear at the written test although he stands in the same footing as that of the other 3 persons. The concerned workman represented to the Zonal Manager of the Bank at Patna through proper channel on 4th May, 1985 requesting therein to consider the case sympathetically in the light of the consideration of other Agricultural Assistant for holding special written test to him so that he may not be deprived of the present chance of his promotion. The said representation of the concerned workman was rejected by the Zonal Office. Out of the 4 Agricultural Assistant whose names have been stated above the concerned workman alone is an Agricultural graduate. In the past the Bank allowed any Agricultural graduate having one year experience even in accounts section to appear in the written test for promotion to the post of Agricultural Finance Officer. The action of the management in not giving effect of back date conversion from clerk to Agricultural Assistant with effect from 16th February, 1984 to the concerned workman and thus depriving him to appear in the test for promotion to the test of Agricultural Finance Officer held on 28th April, 1985 is not justified. It has been prayed on behalf of the concerned workman that an Award be passed in his favour directing the management to promote the concerned workman to the post of Agricultural Finance Officer with effect from the date of promotion of the other 3 agricultural Assistant with all benefits.

The case of the management is that Shri N. P. Sinha (Nagina Pd. Sinha) was appointed as a clerk in the Bank and as posted at Betia on 20th April, 1974. As the concerned workman was a B.Sc. (Agriculture), he applied for conversion as an Agricultural Assistant in 1983 as per Bank's policy. The process of selection from Clerk to Agricultural Assistant was made on All India basis and as such it took sometimes to publish the result. The concerned workman Shri N. P. Sinha along with Shri Mahesh Pandey, Sawalia Pd. and K. L. Srivastava all belonging to Siwan region were found suitable to be converted as Agricultural Assistant. All of them were informed by the Zonal Manager, vide letter dated 4th April, 1984 about their selection and intimating them about the place of their posting. The concerned workman was posted at Goreya Kothi branch which is in Siwan Region and the other 3 were posted in Purnia Region. Since it caused hardship to Mahesh Pandey and 2 others the union took up their issue with the management for their posting in Siwan Regional Office only. No representation was filed by the concerned workman to change his place of posting nor he disputed anything at the relevant point of time. The management considered the case of Mahesh Pandey and others and posted them in Siwan Region instead of Purnia Region and advised the Regional Officer in June, 1984 to post them in Siwan Region where vacancies were existing at that time. No change was made in regard to the posting of the concerned workman as he was already posted in Goreya Kothi branch which was found Siwan Region and no hardship was caused to him. Shri Sawalia Pd. was posted at Bairaia Branch. Shri Mahesh Pandey at Ekama branch and Shri K. L. Srivastava at Digwar branch. The Regional office Siwan accordingly issued the orders of their posting. Those three persons and the concerned workman asked the branches to relieve them to

enable them to report at their place of posting. In the order dated 4th April, 1984 the management had given back dated effect for such conversion with effect from 16th February, 1984 to all the 4 persons named above. When the second order was issued the concerned workman represented on 26th June, 1984 informing that it would not be possible to accept the conversion unless his posting was made either at Bairia or Betia branch where he was working as a Clerk. The other 3 persons did not make any representation and they joined at their new place of posting within Siwan Region. The representation of the concerned workman for his posting either at Betia or Bairiya branch was not accepted by the management as there was no vacancy in those branches when he had made representations and the concerned workman preferred to remain as Accounts Clerk. Subsequently Shri Sawalia Pd. was posted at Bairia branch was willing to be posted at Goreya Kothi branch which was lying vacant as the concerned workman did not join there. Taking this opportunity the concerned workman made a representation on 12th November, 1984 to be posted at Bairia branch which was ultimately considered by the management and Shri Sawalia Pd. was transferred from Bairia branch to Goreya Kothi branch and the concerned workman was posted afresh at Bairia branch in the vacancy caused by posting of Shri Sawalia Pd. at Goreya Kothi branch.

The concerned workman was not considered to be an agricultural assistant from the date when the 3 other were converted. As the concerned workman did not accept the conversion and had expressed his unwillingness to accept the conversion unless he was posted at bettia branch or Bairia Kothi branch. The concerned workman cannot get the advantage which the other 3 got due to their joining as per order of the management. The management converted the concerned workman as Agricultural Assistant as a new case and the effect of his conversion was from the date of his reporting at the place of his posting on new assignment. The date of conversion of the 4 persons was taken as their seniority and as such when the test was held on 28th April, 1985 for promotion from Agricultural Assistant to Agricultural Finance Officer the three persons were considered to be eligible for appearing at the test as they had completed one year service from 16th April, 1984. The concerned workman would have got the same benefit if he had joined his place of posting alongwith three others in June, 1984. The mistake committed in case of the other 3 persons by refusing permission for appearing in the test was rectified subsequently and were allowed to sit for the test of Agricultural Finance Officer. The management has denied that there was any policy at the relevant point of time to call any clerk other than agricultural Assistant for promotion as Agricultural Finance Officer. On the above facts it is submitted that there is no valid and enable case of the concerned workman.

The only point for decision in this case is whether in not giving effect of back date conversion from clerk to Agricultural Assistant with effect from 16th February, 1984 to the concerned workman Shri N. P. Sinha and depriving him to appear in the test for promotion to the post of Agricultural Finance Officer held on 28th April, 1985 was justified.

None of the parties adduced any oral evidence. All the documents of the workmen filed in this case were marked on admission as Ext. W-1 to W-9. No document was marked on behalf of the management.

Most of the facts in the case are admitted. The admitted facts are that the concerned workman Shri N. P. Sinha was appointed as a Clerk in Central Bank of India and as posted at Bettia on 20th April, 1974. He is a B.Sc. Agriculture. He applied for conversion as an Agricultural Assistant in 1983. The concerned workman along with S/Shri Mahesh Pandey, Sawalia Pd. and K. L. Srivastava all working in the Central Bank of India in the Siwan Region were found suitable to be converted as Agricultural Assistant. The Zonal Manager, directly informed the concerned workman and 3 others vide letter dated 4th April, 1984 about the selection and the place of their posting. The concerned workman was posted at Goreya Kothi branch in Siwan Region and the other 3 were posted in Purnia Region as Agricultural Assistant. In the said appointment letter dated 4th April, 1984 which is marked Ext. W-1 will show that the management gave them back dated effect for their conversion to Agricultural Assistant with effect from 16th February, 1984 and in the subsequent order dated 26th June, 1984 also there is no change

in regard to the terms and condition as stated in the appointment letter dated 4th April, 1984. Shri Mahesh Pandey and 2 others posted in Purnia Region felt hardship in their posting in Purnia Region and as such the union took up their issue with the management for their posting in Siwan Region. The concerned workman had not represented at that time for the change of his place of posting along with 3 others. The management considered the case of Shri Mahesh Pandey and 2 others who had been posted to Purnia Region and after considering, all the three of them were posted in Siwan Region instead of Purnia Region. No change of the place of posting was made in respect of the concerned workman as he was already posted within the Siwan Region and no representation was made by him for the change of his posting to any other place. Shri Mahesh Pandey was posted at Ekena, Shri Sawalia Pd. was posted at Bairia branch and Shri K. L. Srivastava was posted at Digwar branch within Siwan Region and the place of posting of the concerned workman remained at Goreya Kothi branch. The Regional Officer Siwan issued orders for their posting on 26th June, 1984 and asked the branches to relieve them to join at their new place of posting as Agricultural Assistant. The above facts are admitted by both the parties.

It will appear that when the second order was issued posting Shri Mahesh Pandey and 2 others in Siwan Region, the concerned workman represented on 26th June, 1984 vide Ext. W-9 informing the Assistant General Manager, Central Bank of India and Regional Office Patna that it would not be possible for him to accept the conversion to the posting of Agricultural Assistant unless his posting was made either at Bairia branch or at Betia branch where he was working as a clerk. The other three persons joined their new place of posting in the branches of Siwan Region but the concerned workman did not join at Goreya Kothi branch. The representation of the concerned workman made vide Ext. W-9 for his posting at Beriya branch or at Betia branch was not accepted by the management. According to the management there was no vacancy at Betia branch or Bairia branch when the concerned workman had applied vide Ext. W-9 for his posting at Betia branch or Bairia branch as Sawalia Pd. had already joined at Bairia branch. It is further admitted by the parties that subsequently Shri Sawalia Pd. posted at Bairia branch was willing to be posted at Goreya Kothi branch which was lying vacant as the concerned workman did not join there. The concerned workman after having come to know that Shri Sawalia Pd. was willing to be posted at Goreya Kothi branch made representation on 12th November, 1984 to be posted at Bairia branch in place of Shri Sawalia Pd. Ex. W-2 dated 12th November, 1984 is the representation of the concerned workman in which he had requested for his mutual transfer to Bairia branch and posting of Shri Sawalia Pd. to Goreya Kothi branch. The said representation was allowed and the concerned workman was posted at Bairia branch as Agricultural Assistant vide Ext. W-3 dated 31st January, 1985. Ext. W-3 will further show that in the case of the concerned workman the effective date of his conversion as Agricultural Assistant was to be the date of his reporting at Bairia branch but the other terms and conditions of his conversion vide Ext. W-1 remained unchanged. Thereafter the concerned workman joined at Bairia branch as Agricultural Assistant on 27th February, 1985. (as per para-7 of the W.S. of the workmen). According to the management the conversion of the concerned workman as Agricultural Assistant was treated as a new case and not in continuity of his earlier appointment vide Ext. W-1 dated 4th April, 1984 and the management gave him the effect of such conversion from the date of his reporting at Bairia i.e. with effect from 27th February, 1985. Ext. W-4 dated 9th March, 1985 is a representation by the concerned workman to the Zonal Manager Central Bank of India by which he requested to consider his case for allowing him back date effect i.e. from 16th February, 1984 as mentioned in the original letter. Ext. W-1 on the ground that the other three persons also had not joined in accordance with the original appointment letter dated 4th April, 1984 but in their case the date of effect of conversion from 16th February, 1984 was not changed and he also requested vide Ext. W-4 that he may be allowed to appear in Agricultural Finance Officer examination scheduled to be held on 28th April, 1985 as he has also completed one year reckoned from 16th February, 1984 to 28th February, 1985 as was the case in respect of the other 3 persons who were converted to the post of Agricultural Assistant. It will appear from the case of the management that the concerned workman was not allowed to appear in the Agricultural Finance Officer examination as he had not completed one year of actual

continuous service as Agricultural Assistant in view of the fact that the concerned workman had joined at Bairaia as Agricultural Assistant on 27th February, 1985.

Ext. W-7 dated 28th February, 1985 is a circular by the Chief Manager of Central Bank of India Zonal Office regarding promotion to the post of Agricultural Finance Officer. It shows that the notice dated 4th February, 1985 was partially modified and it provided that Agricultural Assistant who fulfil the following requirement are eligible for the post of Agricultural Finance Officer :

- (1) Length of Service—All Agricultural Assistant who have put in one year actual continuous service as on 28th February, 1985 reckoned from the date of probation are eligible.

The above criteria was neither fulfilled by the concerned workman or by S/Shri Mahesh Pandey, Sawalia Pd. and K.L. Srivastava as none of them had put in one year actual continuous service as on 28th February, 1985. S/Shri Mahesh Pandey and 2 others were posted in Siwan Region on 26th June, 1984 and the concerned workman had joined at Bairaia branch on 27th February, 1985. Thus the above named three persons other than the concerned workman had not put one year actual continuous service from 26th June, 1984 to 28th February, 1985. It is needless to say that the concerned workman also had not completed one year actual continuous service from 27th February, 1985 to 28th February, 1985. It was for that reason that the Chief Manager of Central Bank of India Patna Zonal Office vide their letter dated 8th April, 1985 informed the concerned workman S/Shri N. P. Sinha, Sawalia Pd., K. L. Srivastava and Mahesh Pandey that as they have not completed actual continuous service of one year as Agricultural Assistant as on 28th February, 1985, they are not eligible to participate in the ensuing promotion process as per the eligibility criteria fixed by the management and they were accordingly advised. It will thus appear that the management itself had found that neither the concerned workman nor the other three persons who had been converted as Agricultural Assistants along with the concerned workman had completed one year of actual continuous service as agricultural assistant as on 28th February, 1985 and as such they were not eligible to participate in Agricultural Finance Officer examination.

Although no letter or circular has been filed by any of the parties, both the parties agreed and made submission before me that the said one year period of actual service as agricultural assistant was subsequently waived by the management and S/Shri Mahesh Pandey, Sawalia Pd. and Shri K. L. Srivastava were allowed to appear in Agricultural Finance Officer examination and were finally selected on the said post. There appears to be no reason as to why the concerned workman was not allowed to appear in the said examination for selection to the post of Agricultural Finance Officer when the bar of one year actual continuous service as agricultural assistant was waived and his three other colleagues were allowed to appear in the said examination but the concerned workman was deprived from appearing in the said examination. If the bar of actual continuous service of one year as Agricultural Assistant was waived in the case of the three other persons, the same advantage should have been given to the concerned workman as well. The management in allowing Shri Mahesh Pandey and 2 others to appear in the Assistant Finance Officer examination has discriminated by eliminating the concerned workman from appearing in the said examination although the bar of one year continuous service as Agricultural Assistant had been waived which was formerly one of the conditions to be fulfilled for appearing for the Asstt. Finance Officer examination.

Ext. W-6 dated 4th May, 1985 was a representation by the concerned workman to the Zonal Manager, Central Bank of India requesting to consider his case and to make arrangement for his special test so that he may appear in the examination for selection to the post of Asstt. Finance Officer. Admittedly the prayer of the concerned workman was not accepted. In my opinion the ground for not allowing the concerned workman to appear in Agricultural Finance Officer examination as stated in the W.S. of the management almost appears to be punitive in the sense that the concerned workman had not joined his earlier place of posting at Goreya Kothi branch and the concerned workman had asserted that he would not join as Agricultural Assistant unless he is posted

at Bairaia Branch or at Betla Branch where he was posted from before in the Central Bank of India. The said matter cannot count with the management for not allowing the concerned workman to appear in Asstt. Finance Officer examination as admittedly he had joined as Agricultural Assistant at Bairaia branch on mutual transfer prior to the date of the examination of Agricultural Finance Officer and the bar of one year continuous service as Agricultural Assistant had been waived. In my opinion the concerned workman must be brought at par with the other three persons who were allowed to appear in the examination for Asstt. Finance Officer as the period of one year service as Agricultural Assistant was waived. It appears that due to the fault of the management the concerned workman was not allowed to appear in the Agricultural Finance Officer Examination although he was an agricultural graduate with about 10 years of service in the Bank at the relevant time. In this view of the matter I think that the prayer of the concerned workman made in Ext. W-6 that the management should arrange for a special test so that the concerned workman may appear for selection to the post of Agricultural Finance Officer appears to be quite reasonable as it was because of the fact that the management did not allow the concerned workman to appear in the Asstt. Finance Officer examination although he along with his three colleagues were eligible to appear in the examination which was held on 28th April, 1985.

As the concerned workman had not joined his place of posting at Goreya Kothi branch and had refused to join there unless he is posted to Bairaia branch or Betla branch, his appointment remained in abeyance. It was only when Shri Sawalia Pd. who had applied for being posted from Bairaia branch to Goreya Kothi branch that the case of the concerned workman was again considered and he was posted at Bairaia branch. Under the circumstances I think that the management was not unjustified in changing his effective date of conversion from 16th February, 1984 to the date of his joining at Bairaia branch on 27th February, 1985.

In the result I hold that the action of the management of Central Bank of India in not giving effect of back date conversion from Clerk to Agricultural Asstt. with effect from 16th February, 1984 to the concerned workman Shri N. P. Sinha is justified but the action of the management in depriving the concerned workman to appear in the test for promotion to the post of Agricultural Finance Officer held on 26th April, 1985 is not justified. Accordingly the management is directed to arrange for a special test for selection to the post of Agricultural Finance Officer and allow the concerned workman to appear in the said test, and if he is selected in the said test he should be promoted to the post of Agricultural Finance Officer. The management is further directed to arrange for special test for selection to the post of Agricultural Finance Officer within one month from the date of publication of the Award.

This is my Award.

I. N. SINHA, Presiding Officer
[No. L-12012/471/87-D.II(A)]

का. अ. 2839.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुकरण में केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबन्धसंगत के संवद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 1 बम्बई के पंचाट को प्रकाशित करती है जो केन्द्रीय सरकार को प्राप्त हुआ था ।

S.O. 2839.—In pursuance of Section 17 of Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1, Bombay as shown in the Annexure in the Industrial dispute between the employers in relation to the Bank of Maharashtra and their workmen, which was received by the Central Government on the 11-10-89.

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1 AT BOMBAY
PRESENT :**

Mr. Justice M. S. Jamdar,
Presiding Officer

REFERENCE NO. CGIT-4 OF 1988

PARTIES :

Employers in relation to the management of
Bank of Maharashtra

AND

their workmen.

APPEARANCES :—

For the Management.—Mr. Nizampurkar,
Officer

For the Workmen.—Mr. V. Karmarkar,
General Secretary, Bank of Maharashtra
Karmachari Sangh

INDUSTRY.—Banking

STATE.—Maharashtra

Bombay, dated the 7th day of December, 1988

AWARD

The Central Government in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Dispute Act, 1947, has referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of Bank of Maharashtra in not allotting the post of Daftary to Shri A. R. Kadam, senior-most sub-staff Bajirao Road Branch, Pune is justified? If not to what relief is the workman entitled?”

2. The workman Shri A. R. Kadam, who is working as sub-staff in the Bajirao Road Branch of Bank of Maharashtra since 26-12-1975, is claiming the post of Daftary on the basis of the Branch seniority as per the circular dated 5-8-1974, which is titled as “Allotment of Special Allowance Posts”. According to the workman, he was allotted the post of Daftary on temporary basis in March 1985, but later on he was superseded and Shri A. B. Kshirsagar, K. G. Mahadik, B. S. Kokil, and P. D. Kale, who joined the Bajirao Road Branch on 17-12-1977, 17-12-1977, 7.01.1978, and 11-5-1978 respectively and were thus junior to him, were allotted permanent post of Daftary with effect from 1-11-1985, 15-1-1986, 15-1-1986 and 2-4-1986, respectively.

3. According to the Bank, the circular dated 5-8-1974 on which the claim of the workman is founded has been struck down by the Central Government Industrial Tribunal, Delhi, in the dispute raised by the Union of Maharashtra Bank Employees, Nagpur an affiliate of NOBW to which the Union raising the present dispute is also affiliated. It is also the case of the Bank that for the purpose of allotment of special allowance carrying posts, branch seniority has been replaced by ‘city seniority’ and the change to that effect proposed by 2931 GI/89—11.

the Bank by notice of change dated 22-2-1983 giving under section 9A of the Industrial Disputes Act, 1947, has culminated into the settlement before the Regional Labour Commissioner (C), Bombay, on 13-4-1987, to which the Union raising the present dispute is a party. It is further the case of the Bank that Shri A. R. Kadam, did not raise any protest when his juniors in the Bajirao Road Branch were given lower allowance carrying posts of Liftman, Cash Peon, Bill Collector and thus acquiesced in his supersession so far as the allowance carrying posts are concerned. According to the Bank, the workman had refused to work on the allowance carrying post of Cash Peon, in June 1980, and thus forfeited his claim for being considered for allowance carrying posts, even on the basis of the circular dated 5-8-74.

4. In the rejoinder filed by the Bank of Maharashtra Karmachari Sangh (hereinafter referred to as Sangh) it is contended that in spite of the decision of the Delhi and Bombay Tribunals the Bank continued to implement the circular dated 5-8-1974, in the matter of allotment of allowance carrying posts, till the settlement dated 13-4-1987, which had no retrospective effect. The Sangh also contended that as Shri Kadam became due for getting the allowance carrying post long before the said settlement his claim cannot be rejected on the basis of the said settlement by which for the first time ‘City Seniority’ was considered as the basis of allotment of allowance carrying posts.

5. Even though the Desai Award and the subsequent Binartite Settlements provided for payment of special allowance to members of the subordinate staff for performing certain duties/responsibilities those awards and settlement did not contain any guidelines as to how the allowance carrying posts should be allotted. The Bank of Maharashtra by circular dated 5-8-1974, formulated general guidelines for allotment of allowance carrying posts. The first guideline was that seniority to be considered for the purpose of allotment of allowance carrying posts was to be the seniority at the branch/Divisional Office/Central Office and such seniority was to be decided on the basis of date of joining in the branch/Divisional Office/Central Office. According to the Bank, this circular was struck down by the Central Government Industrial Tribunal, New Delhi and the Central Government Industrial Tribunal No. 2, Bombay, and hence the workman would not be entitled to invoke that circular for supporting his claim. The said awards are produced as Ex. M-1 and Ex. M-2. It will be seen from the award passed by the Presiding Officer, CGIT, New Delhi, that the learned Presiding Officer held that the circular violated paragraph 529 and 507(2) of the Shastri Award. Paragraph 507(2) of the Shastri Award relates to the retrenchment of employees and prescribed town seniority as the basis for considering the question as to who among the junior-most is superfluous for the purpose of retrenchment. Paragraph 529 of the Shastri Award laid down that in the matter of the promotions, divisional or town seniority was to be the basis. It is however pertinent to note that allotment of allowance carrying posts is neither a

matter of promotion nor of retrenchment. The sub-staff appointed to such a post continues to belong to the cadre of sub-staff and he is paid special allowance for performing the additional duties attached to that post. Hence prescribing branch seniority as the qualification for allotment of such posts was neither discriminatory nor violated para 507(2) nor para 529 of the Sastry Award. In the second Award (Exh. M-2) the learned Presiding Officer of the CGIT No. 2, Bombay, held that the Union was estopped from relying on the circular dated 5-8-1974, because the Union to which it was affiliated had successfully challenged it before the CGIT Delhi in the above referred reference (Exh. M-1). I am unable to accept the reasoning adopted by both the Tribunals.

6. It is also a matter of record that inspite of the above mentioned decisions, the Bank continued to implement the circular dated 5-8-1974 and made allotment of allowance carrying posts on the basis of branch seniority. This position can be seen from the circulars Exh. W-5 dated 1-8-1985, and Exh. W-6 dated 28-9-1985, issued by the Assistant General Manager (Personnel) and Deputy General Manager (Personnel) respectively to all branches/offices of the Bank in the matter of decentralisation of disposal of individual grievances. In the circular Exh. W-5, it was stated in the penultimate paragraph that some of the concepts, and practices of the Bank had become out-dated and as such they may not be relied upon. It was also stated that the concept of branch seniority was being replaced by city seniority. The circular Exh. W-6 was issued in furtherance to Exh. W-5 and contained some clarifications made in pursuance to the discussions held by the management in the machinery meeting with the representative of the All India Bank of Maharashtra Employees' Federation (an affiliate of AIBFA) on 9-8-1985. Paragraph 10 of this circular which is relevant reads as follows :—

"That in regard to the last but one para of the covering letter it is clarified that the concept of city seniority is being discussed and will be decided in consultation with the Majority Union. Till the finality is reached the present basis may continue."

7. As mentioned above, the concept of city seniority was accepted as the basis for allotment of allowance carrying posts for the first time by the settlement dated 13-4-1987. By the said settlement the parties to the settlement agreed upon the rules governing allotment of allowance carrying posts in the branches/offices of the Bank. Term number 1 contained definitions. The definition of the phrase seniority is given in clause (vi) of term number 1. It reads as follows :

"Seniority means a seniority of an employee in the City counted with reference to the date of his joining the services in that cadre on promotion in the City. However, in case of employees transferred on request into the city, their eligibility for the purpose of allotment of allowance

carrying posts shall be counted after completion of twelve months. The period of twelve months shall be counted from the date of joining the branch to which he is transferred and not from the date of transfer order."

The circular also prescribed procedure for allotment of allowance carrying posts. Clause (i) of the said paragraph laid down that all allowance carrying posts excepting those for which special skill is required shall be allotted on the basis of city seniority unless there was something adverse against the person concerned. Term 3 of the settlement further provided that the existing allowance holders were not to be disturbed as the result of the introduction of city seniority for the purpose of allotment of allowance carrying posts. It is thus crystal clear that till the settlement dated 13-4-1987, the Bank made the allotment of allowance carrying posts on the basis of branch seniority. This settlement was not given retrospective effect either specifically or by implication.

8. The contention that Shri A. R. Kadam did not raise any protest when his juniors were allotted the post of Daftary is factually incorrect. In the year 1985, the first post of Daftary became vacant in November, 1985. The workman specifically staked his claim for that post by the application Exh. W-7 dated 4-11-1985. Two more posts of Daftary fell vacant in January 1986. The workman claimed one of the two posts by application Exh. W-8 dated 25-1-1986. One more post fell vacant in April 1986. The workman submitted his application Exh. W-9 dated 23-6-1986, claiming that post.

9. It was sought to be urged that the workman Shri Kadam did not raise any protest when his juniors in the Bajirao Road Branch were given lower allowance carrying posts of liftman, cash peon, bill collector etc. and in June, 1980, he refused to work on the allowance carrying post of cash peon and thus forfeited his claim for being considered for the allowance carrying posts. In support of this contention, reliance is sought to be placed on terms 8 and 9 of the settlement dated 13-4-1987 which read as follows :

"8. REFUSAL TO ACCEPT THE POST :

If any employee who is eligible for the post, is unwilling to accept any permanent allowance carrying post, he will have to give his unwillingness in writing. Such refusal or unwillingness will debar an employee permanently from getting the same or any post carrying higher or equal allowance. In case all the eligible employees refuse to accept the post, which has fallen vacant, a senior most employee shall have to work on the post irrespective of his earlier refusal.

9. ALLOTMENT OF POSTS IN THE ASCENDING ORDER :

There may not be necessarily a linkage between the two allowance carrying posts in

terms of the duties attached to such posts. However, to curb opportunism amongst the employees and to give justice to the employees coming forward to shoulder higher responsibilities it has been agreed to allot the allowance carrying posts in the ascending order.

The posts carrying higher allowance can be claimed only if a person has worked on the post carrying lower allowance, i.e. the post of Daftari cannot be claimed unless an employee has worked as a Cash Peon or a Bill Collector in case of the Subordinate Staff. This will, however, not apply in case the number of sub-staff is less than the total number of posts attracting Special Allowance."

These provisions however were introduced for the first time by the Settlement dated 13-4-1987, which as mentioned above, was not given retrospective effect. Before this settlement the Bank followed guidelines given in the circular dated 5-8-1974. The guidelines in the said circular did not contain any clause about forfeiture of the claim for any allowance carrying post on account of the eligible employee either no claiming or refusing to accept any lower allowance carrying post. Even refusal to accept the same allowance carrying post did not debar the concerned workman from claiming it on the next occasion. There was, therefore no justification for refusing to allot to Shri Kadam the allowance carrying post of Daftary that fell vacant on 1-11-1985 and which was allotted to a person who was admittedly junior to him in the Bajirao Road Branch.

10. In the result, it is declared that the action of the management of Bank of Maharashtra in not allotting the post of Daftary to Shri A. R. Kadam was not justified. It is further declared that Shri A. R. Kadam will be deemed to have been allotted the post of Daftary with effect from 1-11-1985. The Bank is therefore directed to allot the said post to Shri A. R. Kadam forthwith and pay to him special allowance for the post of Daftary with effect from 1-11-1985, onwards. Award accordingly.

M. S. JAMDAR, Presiding Officer
[No. L-12012/307/87-D.II(A)]

नई दिल्ली, 24 अक्टूबर, 1989

का.आ. 2840—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबन्धितंत्र से संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2 बम्बई के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को प्राप्त हुआ था।

New Delhi, the 24th October, 1989

S.O. 2840.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2,

Bombay as shown in the Annexure in the Industrial dispute between the employers in relation to the Punjab National Bank and their workman, which was received by the Central Government.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

PRESENT

Shri P. D. Apshankar, Presiding Officer.
Reference No. CGIT-2/15 of 1986

PARTIES

Employers in Relation to the Management of Punjab National Bank

AND

Their Workman

APPEARANCES

For the Employers.—Shri V. S. Kohojkar,
Advocate with Shri V. V. Pai, Advocate.

For the Workman.—Shri P. M. Huddar,
Advocate.

INDUSTRY :

Banking

STATE :

Maharashtra

Bombay, 22nd September, 1989

AWARD PART I

The Central Government by their order No. L-12012/107/85-D.IV(A) dated 21-3-1986 have referred the following industrial dispute to this Tribunal for adjudication under Section 10 (1)(d) of the Industrial Disputes Act :—

"Whether the action of the Regional Manager, Punjab National Bank, Bombay in dismissing Shri C. P. S. Nair, Teller, Punjab National Bank, Khadki, Pune from Bank's services w.e.f. 21-11-1984 is lawful and justified? If not, to what relief is Shri C.P.S. Nair, entitled?"

2. The case of the workman Shri C.P.S. Nair, as disclosed from the claim statement (Ex 2) in short, is thus :—

He was appointed as a Clerk in Punjab National Bank. At the material time he was working as a Teller at the Khadki Branch of the Bank, and he was authorised to pay Rs. 2000 to the clients. Till that period he had completed 12 years service of clean and unblemished record. On 7-9-1983, the Branch Manager Shri Sunderar called the workman in his chamber, and told him that during the year 1982 some fraud had taken place, that the workman was guilty thereof and told the workman to give in writing that the said fraud was committed by him only. The workman refused to give anything in writing, as he had not committed any fraud. The said Branch Manager then gave threats to him and told him that till he admits the fraud, he will not be allowed to go out of the chamber, and un-

lawfully confined him in his chamber. The Branch Manager gave threats of dire consequences to the workman. Due to threats pressure and extortion, the workman put his signature on the statement put up by the Bank. Thereafter, the Branch Manager allowed him to go away. After forcefully taking the signature on the paper the Branch Manager lodged a Police complaint and a criminal case was thereafter lodged by the Police against the workman.

- (ii) Thereafter the Bank management started disciplinary action against the workman. A chargesheet dated 20-3-1984 was issued against the workman. He was directed to submit his reply and accordingly he submitted his reply denying the charges levelled against him. Thereafter a departmental enquiry was started against him. One Shri S. N. Sharma was appointed as an Enquiry Officer. That enquiry was not held properly and he was not given proper opportunity to defend himself and to be represented by a lawyer or by a representative of his choice. The workman requested for adjournments, which were refused on two occasions. The enquiry Officer conducted ex-parte enquiry against him. He held the workman guilty of the charges in question and submitted his report dated 6-8-1984 to the Bank management. The findings of the enquiry officer are perverse. Thereafter, the Bank management issued a notice to the workman directing him to show cause why he should not be dismissed from service. The workman submitted his reply to that notice and contended that the enquiry was against the provisions of Bipartite Settlements. The Bank management then dismissed the workman from service with effect from 20-11-1984. The workman then raised an industrial dispute with the Assistant Labour Commissioner (C), Pune, but the conciliation proceedings ended in failure, and thereafter the Central Government made the reference, as above. The workman lastly prayed that this Tribunal should hold and declare said enquiry as illegal and should direct the Bank management to reinstate him in service, with full back wages and continuity of service.

3. The Punjab National Bank by its written statement (Ex. 3) contested the claim of the workman, and in substance contended thus :—

The present reference is not proper, valid and not maintainable in law. The reference has been made by the Government without proper application of mind, to the facts of the case and to the law applicable to it. Further, the reference is premature, as the workman has not fully exhausted all the remedies available to him under the provisions of Bipartite Settlements. He did not file any appeal to the Appellate Authority and hence the reference is not maintainable in law. The dismissal of the workman is in accordance with law, just and proper.

The Bank management then further contended thus :—The workman Shri Nair was appointed as a Clerk-Typist in the Bombay office in April 1971. He was transferred to Khadki Branch of the Bank in October 1974. He was placed under suspension on 7-9-1983 by the Branch Manager Khadki for his fraudulent activities regarding different accounts. The Bank deputed an Inspector for thorough investigation of the fraud committed by the workman. During the course of investigation the workman by his letter dated 15-9-1983 admitted to have defrauded the Bank to the extent of Rs. 2,60,400. The Branch Manager then lodged a complaint against the workman with the Police in October 1983. A chargesheet was then served upon the workman by the Bank regarding the acts of omission and commission committed by him in not adhering to procedural instructions in regard to the maintenance operations of the accounts while working as a Teller. The workman filed his say denying the charges levelled against him. He further contended that the provisions of the Bipartite settlements do not apply to him. Thereafter the departmental enquiry was started in terms of the provisions of the Bipartite Settlement. Shri S. L. Sharma, Manager of the Pune office was appointed as the Enquiry Officer, and Shri M. Sunderaraman, was the Bank representative. The service conditions of the Bank employees are governed by the Awards and Bipartite Settlements. Enquiry against him was held as per the provisions of Chapter 19 of the Bipartite Settlement of October 1966. The workman wanted to engage the services of an Advocate. The Enquiry Officer however, informed him that in terms of the Bipartite Settlement, he can be represented by an office bearer of a registered trade Union of the Bank employees or Federation of which he is a member. At this stage the workman walked out of the enquiry place. The Enquiry Officer then told him that he would be constrained to hold the enquiry proceedings against him ex-parte. Accordingly, the enquiry proceedings were held ex-parte against the workman.

- (ii) After completing the necessary enquiry, the Enquiry Officer submitted his report to the Disciplinary authority i.e. The Regional Manager, Bombay. The Disciplinary authority then proposed the punishment of dismissal from service of the workman. A show cause notice was, therefore, issued to the workman. A date was fixed for the personal hearing of the workman. The punishment of dismissal was confirmed by the Disciplinary authority on 21-11-1984. The action of the Bank management in dismissing the workman Shri Nair from service is just and proper. The workman had withdrawn the amounts fraudulently from different accounts, and as such, has com-

mitted fraud. He had committed the fraud during the years 1981 to 1983, even though the fraud came to be detected in 1983. A complaint with the Police was lodged by the Bank regarding the different acts of misappropriation of the Bank amount. The Department enquiry was however, held against him for the acts of misconduct committed by him for violating the procedural instructions and rules in regard to operation and maintenance of accounts in the Bank. He had committed the misconduct in terms of para 19.4 of the Bipartite settlement. Even though the enquiry proceeded ex-parte against the workman, it was conducted as per the rules of natural justice. Every reasonable opportunity was afforded to the workman to participate in the enquiry and to submit his defence. The Bank management, therefore, prayed that its action in question be held as just and proper, and prayed for the dismissal of the workman's claim.

5. Issues framed at Ex. 4 are :—

- (1) Whether the workman proves that on 7-9-1983 only his signature was obtained by the Branch Manager under a certain statement under force or threat ?
- (2) Does he prove that the inquiry held against him was not held properly, that he was not given proper opportunity to defend himself, and the rules of natural justice were not properly followed ?
- (3) Whether the present reference is premature, bad in law, and as such not tenable in law ?
- (4) Whether the action of the Regional Manager, Punjab National Bank, Bombay in dismissing Shri C.P.S. Nair, Teller, Punjab National Bank, Khadki, Pune from Bank's service w.e.f. 21-11-1984 is lawful and justified ?
- (5) If not, to what relief is Shri C.P.S. Nair, entitled ?
- (6) What Award ?

6. Issues Nos. 1, 2 and 3 are being tried as preliminary issues. My findings on the above Issues are :—

- (1) No finding is recorded.
- (2) Yes
- (3) No

REASONS

ISSUE No. 2

7. In this case the workman Shri C. P. Sadashivan Nair filed his affidavit (Ex. 5) in support of his case and he was cross-examined on behalf of the Bank management. Shri Adrian Deonis Minz, Personnel Officer of the Bank filed his affidavit (Ex. 7) in support of the contentions of the Bank management. He was also cross-examined on behalf of the workman. The workman in substance stated in his affidavit thus :—

"His services were suspended by letter dated 7-9-1983 on the ground that he had committed certain irregularities while making credit and debit entries in the account. A chargesheet was thereafter issued to him on 15-3-1984. He replied to it. The enquiry proceedings started on 25-6-1984. Shri S. L. Sharma was the Enquiry Officer, while Shri Sundararaman was the Bank's representative. The workman was present on the said day. The enquiry was thereafter adjourned to 23-7-1984. The workman was present on that day. It was then adjourned to 25-7-1984. On that day also, the workman was present. The enquiry was then adjourned to 27-7-1984, on which day the workman was present. On that day i.e. 27-7-1984 the workman presented an application before the Enquiry Officer stating that as the Bank representative Shri Sundararaman was a Law Graduate and well conversant with the Law, he may also be allowed to be defended by a Lawyer. That request was, however, rejected by the Enquiry Officer as the Bank's representative had objected to it. The workman again filed an application before the Enquiry Officer that as no office bearer of the Punjab National Bank Employees Union of which he was a member, was ready and willing to represent him in the present enquiry proceedings, he may be allowed to be represented by office bearer of some Union, namely, Hind Mazdoor Sabha. However, that request was also not granted on the ground that the workman was not a member of the Union by name Hind Mazdoor Sabha, and that Hind Mazdoor Sabha was not also the Union of the Punjab National Bank employees. As his request for his representation through the said Union was not allowed, the workman himself left the place of enquiry, and did not participate in the enquiry again".

It is further seen from the affidavit of the workman that on 30-7-1984 he again filed one more application to the Regional Manager, Bombay, to direct the Enquiry Officer to allow him to be represented through a Lawyer. That request was also rejected by the Bank management. Therefore, according to the workman, he was not given proper opportunity to defend himself during the course of enquiry, and the rules of natural justice were not followed. As noted above, his Union i.e. the Punjab National Bank Employees' Union was not prepared to defend him in the enquiry proceedings, and that he could not be allowed to be represented by the Hind Mazdoor Sabha, as it was not a Union of the said Bank employees, and as the workman was not allowed to be represented by a Lawyer, he was left with no other alternative in the said circumstances, he was to face the enquiry proceedings himself without the aid of any other person. The charges levelled against him were very serious, and it was alleged that he had committed fraud of Rs. 2,60,400. Therefore, according to the workman, the Bank management and the

Enquiry Officer should have allowed him to be represented through a Lawyer. This is allowed as per the provisions of Clause 19.12 of the Chapter 19 of the Bipartite Settlement of 1966. In this connection my attention was drawn on behalf of the workman to the case reported in 1986 LAB. I. C. 613 (Antonio B. Furtado Vs. Chairman and Managing Director, Bank of India, Bombay and others) of the Bombay High Court (Panaji Bench). It was observed and held as follows :—

“Though ordinarily courts should discourage the involvement of legal practitioners in domestic inquiries in order to avoid delay and complexities, nonetheless, the court cannot ignore that in exceptional cases a representation by lawyer is necessary, for otherwise there may be a failure of the inquiry itself and a denial of a proper and effective defence.

Where a bank employee (staff clerk) was charged for misappropriation, fraud etc. etc., and these charges being of serious nature constituting criminal offences, if proved, would visit the petitioner with civil consequences, both civil and pecuniary as his reputation would be affected and most probably also his means of livelihood, under such circumstances it could be said that this was one of those cases where if the delinquent employee was not permitted to be represented in the Departmental Inquiry by a lawyer, he would be prevented from making an effective and proper defence and thereby, ultimately, the principles of natural justice would be violated. The adequate adjudication of the question involved in the inquiry would necessitate the help of persons who were legally trained.”

In that case also, reliance was placed on the said para. 19.12 of Chapter 19 of the Bipartite Settlement. Even then it was held that the Bank management should have granted the permission to the workman to defend his case through a lawyer. Therefore, I find that in the present case the workman was not given sufficient opportunity to defend himself, and the rules of natural justice were not followed. It is further argued on behalf of the workman that the chargesheet issued against him is vague and the copies of the necessary documents were not supplied to him and that he was placed under trial before the expiry of the period of one year after the complaint was filed against him with the Police. However, in view of the above said finding recorded on the issue no further observations are made at this stage on the other points raised on behalf of the workman. My finding on Issue No. 2 is in the affirmative.

ISSUE NO. 3

8. According to the Bank management, the present reference is premature, bad in law, and as such, not tenable in law. Further, according to the Bank management, the workman did not exhaust all the remedies available to him after the dismissal order was passed against him, and that he had not filed any

appeal against that order with the Appellate authority. However, according to the workman, he filed the necessary appeal to the Appellate authority. A copy of that appeal/application dated 19-6-1985 addressed to the Deputy General Manager, Appellate authority Punjab National Bank, Bombay is at Ex. 17. It is true that he did not file that appeal within the prescribed period of 45 days. However, he had filed the appeal against the order of the disciplinary authority dismissing him from service. Thus, he had exhausted all the remedies that were available to him. Under Section 10(1) of the Industrial Disputes Act, where the appropriate Government is of opinion that any industrial dispute exists or is apprehended, it may at any time refer the dispute to an Industrial Tribunal for adjudication. In the present case an industrial dispute was firstly raised before the Assistant Labour Commissioner (C) Pune, and as the conciliation proceedings ended in failure, the Central Government, being of the opinion that an industrial dispute exists, referred the present dispute to this Tribunal. Therefore the present reference cannot be said to be bad in law as contended by the Bank management. Issue No. 3 is, therefore, found in the negative.

ISSUE NO. 1

9. In view of the finding on Issue No. 2, as above, no finding is recorded on Issue No. 1 at this stage.

P. D. APSHANKAR, Presiding Officer
[No. L-12012/107/85-D. IV(A)]

का. अ. 2841 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबंध में निोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, बम्बई के पंचपट को प्रकाशित करती है जो केन्द्रीय सरकार को 9-10-89 को प्राप्त हुआ था ।

S.O. 2841.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1, Bombay as shown in the Annexure in the Industrial dispute between the employers in relation to the Bank of India and their workmen, which was received by the Central Government.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 AT BOMBAY

PRESENT :

Mr. Justice M. S. Jamdar, Presiding Officer.
Reference No. CGIT-17 of 1986

PARTIES :

Employers in relation to the management of
Bank of India.

AND
their workmen

APPEARANCES:

For the Management : Mr. Pitale, Advocate.

For the workmen : Mr. S. D. Tambe, Secretary of Bank of India workers Organisation.

INDUSTRY : Banking **STATE :** Maharashtra.
Bombay, dated the 14th day of March, 1988.

AWARD

The Central Government in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, has referred the following dispute for adjudication to this Tribunal:

"Whether the action of the management of Bank of India in terminating the services of Shri S.B. Patil, Agriculture Assistant, Kolhapur Main Branch with effect from 20-12-1984 is justified? If not, to what relief is the workman concerned entitled?"

2. The workman was dismissed from service with-notice by order dated 7-12-1982, as a result of two separate departmental enquiries held by two different enquiry officers for two separate sets of charges. The first charge sheet was issued by the District Manager, Kolhapur on 15-7-1980. Before that a show cause notice dated 31-1-1979, was issued by the Regional Manager, Maharashtra Region. But the explanation offered by the workman was not found to be satisfactory. The following charges were levelled against the workman by the charge-sheet dated 15-7-1980 :

"(i) You were neither asked to work overtime nor you actually worked overtime on 18-8-1978 and on 20-10-78, but you claimed and obtained overtime allowance for 2 hours each of the said dates by forging the initials of your superior officer on the overtime sheet.

Your aforesaid acts of commission/commission being acts prejudicial to the interests of the Bank, amount to gross misconduct in terms of clause 19-5(j) of the First Bipartite Settlement.

(ii) On 3-11-78 you had reported for duty at 10.45 a.m. and you were asked to work on Savings Bank Counter upto 1-11-1973 due to shortage of clerical staff in the Savings Bank Department in the exigency of service. You refused to obey the above instructions and submitted a leave application at about 11.15 a.m. There upon you were informed in writing that your leave was not sanctioned. Despite the refusal to sanction the leave you did not work on Savings Bank Counter as instructed but left the Branch premises.

Your aforesaid act of wilfully refusing to do the allotted work on the Savings Bank Counter and disobeying the instructions of your superiors, amounts to gross misconduct in terms of para 19.5(e) of the First Bipartite Settlement dated 19-10-1966."

By the same order the disciplinary authority viz. the District Manager appointed Shri A. D. Barve, Manager, Ichalkaranji Branch as the enquiry officer to enquire into the charges levelled against the workman. The enquiry officer conducted the enquiry

during the period from 2-10-1980 to 20-7-1981 and submitted his report on 14-8-1981. Before that another charge-sheet cum-suspension order dated 18-7-1981, was served on the workman on 31-7-1981 and till the second enquiry was completed the decision in respect of the charges levelled by the first charge-sheet was kept in abeyance. The second enquiry was conducted by Shri B. R. Mithari, who succeeded Shri A. D. Barve as the Manager of the Ichalkaranji Branch. The charges levelled by the second charge-sheet were as follows :—

"On 11-4-1981, at about 11.30 a.m. when Agricultural Officer Shri D. V. Jachak while placing one cheque No. 104602 for Rs. 12,000 on your table asked you send the same for collection, you not only refused to comply with the same for collection, but also behaved indecently in the premises of the Branch by shouting at the top of your voice against Shri Jachak. Again on 25-5-1981, when Shri Jachak asked you in writing for certain information in connection with the pre-sanction inspection report submitted by you on 23-5-1981 in respect of 5 Gobar Gas Plant cases of village Padali Khur, you not only returned the memo requiring you to submit the information to Shri Jachak but also scratched Para-2 of the memo and refusing to give him the desired information, disorderly behaved in the premises of the Branch by shouting at Shri Jachak to the effect that if he wanted perfect work he himself should do it.

Your aforesaid acts of refusing to comply with the instructions of Shri Jachak and behaving disorderly in the premises of the Branch, amount to gross misconduct respectively in terms of sub-para (e) and (c) of para 19.5 of the First Bipartite Settlement dated 19-10-1966 being wilful disobedience of lawful and reasonable orders of your superior and disorderly or indecent behaviour in the premises of the Branch."

Charge No. 2

In your bill for Batta/Halting allowance for Rs. 200 submitted by you on 25-5-1981, you have falsely claimed Rs. 20 showing your visit to village Merli on 22-5-1981 from 4.30 p.m. to 7.30 p.m. for renewal of documents I-444-D in the loan account of Shri D. B. Sankpal in as much as you failed to show the documents 1-444-D in question for verification to the Agricultural Officer and the Branch Manager inspite of their specifically asking you for the same repeatedly on 25-5-1981 and 26-5-1981, and the borrower Shri D. B. Sankpal and guarantor Shri N. K. Magdum of the loan account of Shri L. B. Sankpal stated on 28-5-1981 to the effect that neither you had visited them for the purpose on or before 22-5-1981 nor they had signed any of the Bank's documents on or about the said date. Further, the borrower's son Shri B. D. Sankpal stated on 29-5-81, to the effect that you had handed over the documents in question to him sometime in January, 1981, and he returned to you the same after obtaining thereon the signatures of his father, Shri D. S. Sankpal and the guarantor Shri N. K. Magdum sometime in

February 1981. Besides, the cost of the documents in question is also reported to have been debited to the account on 23-3-1981.

You falsely claiming Rs. 20 showing your visit to village Nerli on 22-5-1981, for renewal of documents L-444-D in the loan account of Shri D. B. Sankpal as stated above amount to gross misconduct being act prejudicial to the interest of the Bank in terms of sub-para (j) of para 19.5 of the First Bipartite settlement dated 19-10-1966."

Shri Mithari, carried out the enquiry during the period from 4-1-1982 to 30-9-1982. He submitted his report on 14-10-1982. On the basis of the findings recorded by the two enquiry officers the disciplinary authority inflicted various punishments for the different charges and issued a show cause notice dated 7-12-1982, calling upon the workman to show cause against the proposed punishment of dismissal from service without notice. The workman did not make any submission in reply to the show cause notice even though he was given sufficient opportunity to do so. The disciplinary authority viz. the Regional Manager, Kolhapur, therefore proceeded to pass the proposed punishments by the order dated 30-12-1982. He inflicted the punishment of dismissal from service without notice for charge number 1 of the first charge-sheet and the punishment stoppage of three increments for charge number 2 of the said charge-sheet while he inflicted the punishment of stoppage of two increments for the first charge of the second charge-sheet and punishment of dismissal without notice for the second charge of the second charge-sheet. Giving cumulative effect to these punishments he passed the order dismissing the workman from service without notice.

3. In the written statement filed by the management of the Bank simultaneously with the filing of the statement of claim by the Bank of India workers' Organisation the management maintained that both the enquiry officers conducted the respective enquiries in accordance with the principles of natural justice and full opportunity was given to the workman to defend his case. The Bank further maintained that the enquiry officers based their findings on the material placed before them and the disciplinary authority went through both the enquiry proceedings and findings of the enquiry officers before issuing a show cause notice in respect of the proposed punishment. The Bank further contended that the order passed by the disciplinary authority was confirmed by the Appellate Authority viz. The Zonal Manager, Pune, after carefully considering the whole matter in the appeal referred by the workman.

4. In the statement of claim filed by the General Secretary of the Bank of India Workers' Organisation (hereinafter referred to as an organisation) it was contended that though the alleged incidents had taken place in August & October 1978 the Bank kept quite all along till January 1979 and after the workman submitted his explanation in April 1979, the Bank took one year and three months to make up its mind as to whether concerned workman should be issued with a charge-sheet or not. It was also contended that the workman was not furnished with the documents asked for by him for the purpose of submitting his explanation to the show cause notice dated 31-1-1979. In respect of the first enquiry it was submitted on behalf of the workman that after he

was informed that the enquiry would be held on 2-10-1980, he demanded on 1-10-80 that the enquiry officer Shri A. D. Barve, was not an independent person and hence he should be changed but the enquiry commenced without deciding this application. The organisation further contended that at the commencement of the first enquiry the workman had requested the enquiry officer to allow him to avail of legal assistant in view of the nature of the charges which were criminal in nature but the management and the enquiry officer took three months to take a decision on the said request and ultimately turned it down unjustifiably. The enquiry officer also turned down the request of the workman for production of over-time sheets for the period from January, 1978 to May 1979 in respect of other employees who had worked like the concerned workman during the said period, which documents were required for the purpose of establishing the practice and/or custom which was pointed out by the workman in his letter dated 16-4-1979. Being aggrieved by this refusal the workman had immediately addressed a letter to the disciplinary authority pointing out the approach of the enquiry officer and informing the said authority that he was being denied the opportunity to examine the documents which were relevant. The Organisation further contended that during the enquiry proceedings the concerned workman found that the questions put by him were not being recorded properly and that the enquiry officer sometimes introduced his own version and hence the workman by letter dated 2-6-1981, recorded his objections in respect of the method adopted by the enquiry officer in recording the evidence. But the enquiry was proceeded with and completed without taking any decision in respect of the said application. According to the Organisation, on 13-3-1981, the workman made an application for deleting questions in respect of misconduct which was not included in the charge-sheet but the enquiry officer over ruled the objection. The Organisation also made grievance that the workman wanted to examine Shri Vatar and Shri B. R. Sanade as defence witnesses but due to the pressure brought on them by the officers of the Bank the said witnesses refused to attend the enquiry and hence the only alternative left to the workman was to prove his case by way of documentary evidence but the enquiry officer refused the request of the workman to direct the management to produce over time sheets called for by him. The Organisation maintained that principles of natural justice were violated in as much as the workman was refused legal assistance, his request for production of documents was rejected without considering the question of relevancy of those documents and without hearing the workman and that the defence witnesses were pressurised to stay away from the enquiry. The Organisation further contended that in the absence of any direct evidence or evidence of handwriting expert it was wrong to conclude that the initials on the over time sheets were made by the concerned workman only on the basis of the circumstance that the workman had received the benefit of over time wages. The Organisation also contended that the second charge in the first charge-sheet was not proved, apart from the fact that it was of technical nature and hence no punitive measure was called for. The Organisation contended that the second enquiry was also vitiated because the worker was not permitted to have assistance of a lawyer and the documents called for were not got produced. The

Organisation also contended that even assuming that the alleged misconducts are proved the punishment inflicted on the workman was not commensurate with the charges levelled against him and hence it is necessary to reduce the punishment to one short of discharge or dismissal.

5. In its rejoinder the Bank challenged the locus-standi of the Organisation to file a statement of claim on behalf of the workman, and to espouse his cause and contended that there was nothing to show that the Organisation has been authorised to do so. The Bank further submitted that in view of the fact that the Bank of India Staff Union, Pune of which the workman was a member and which had defended him in the enquiry has no dispute with the Bank over the termination of the workman, there exists no industrial dispute within the meaning of section 2(k) of the Industrial Disputes Act, 1947, and hence this Tribunal cannot adjudicate over the matter in question. The Bank denied that the workman was not supplied with the documents which he had asked for before submitting his explanation. According to the Bank, all the photo-stat copies of the documents demanded by him were furnished to the workman and only his request for copies for over-time sheets relating to other agricultural assistants was turned down. According to the Bank, being a large corporate body with multitiered administrative set up the delay in instituting the first enquiry was inevitable and was not enormous, apart from the fact that no prejudice was caused to the workman on account of that delay. The Bank further denied that the first enquiry was commenced even though the application given by the workman to the enquiry officer was kept pending. The Bank maintained that as the defence did not justify the need and had not proved relevancy of overtime sheets of all agricultural assistants/clerks for the period from January 1978 to May 1979 it was quite natural for the enquiry officer not to accede to the request made by the defence by application dated 24-2-1981. Moreover, the purpose for which the overtime sheets were required by the workman was served by over time sheets from August to October 1980 which were placed on record and also by other documents which the defence was allowed to examine. The Bank denied that any pressure was brought on the witnesses to whom the workman wanted to examine on his behalf. The Bank maintained that the defence did produce three independent witnesses and except the above referred over-time sheets all the other documents demanded and required by the defence were made available and the workman was given every opportunity for defending the case. According to the Bank, no request for assistance of a legal practitioner was made by the workman at the first instance in the first enquiry. The request was made by the Union representative Shri D. J. Panthan at a latter stage. The Bank also maintained that as Shri Ghanekar whose initials on the over-time sheets were allegedly forged disowned the initials it was not necessary to examine handwriting expert to prove the forgery. The Bank denied that the punishment inflicted on the workman is disproportionately harsh. The Bank further submitted that there is absolutely no cause for reinstating the workman in service as the Bank has no longer trust in the concerned workman especially in view of his conviction for an offence under section 408, 420 and 468 of I.P.C. for fraud-2931 GI/89-12.

duently withdrawing an amount of Rs. 1015 from the account of Shri Shripati Hari Kurane, by making use of a thumb impression of that illiterate account holder which was obtained by misrepresentation.

6. The validity of the two enquiries is questioned by the workman mainly on four grounds viz. (i) Assistance of a lawyer was wrongly refused (ii) production of documents relevant to and necessary for, the defence was wrongly rejected (iii) both the enquiry officers were biased and partial and (iv) the findings are perverse.

7. In both the enquiries the workman sought permission to be defended by a lawyer but the request was turned down by both the enquiry officers. It was contended on behalf of the workman that this refusal seriously prejudiced the defence of the workman. It was contended that looking to the nature of the charges levelled against the workman and taking into consideration the fact that the workman was pitted against legally trained persons the workman could not have effectively defended the charges levelled against him without the assistance of a lawyer. It was also contended that the enquiry officer failed to exercise his discretion in this behalf and acted on the direction of the officers who had no jurisdiction in the matter.

8. In support of the contention that the rejection of the request of the workman to be defended by a legal practitioner amounted to denial of reasonable opportunity to the employee to defend himself and the conclusions reached violated the essential principles of natural justice reliance was sought to be placed on behalf of the workman on the decision of the Supreme Court in the case between the Board of Trustees of the Port of Bombay and Dilipkumar Raghavendranath Nadkarni and others (1983—Vol.-I-LLJ—page 1) and the decision of the Calcutta High Court in the case between the India Photographic Co. Ltd. and Mr. Saumitra Mohan Kumar (1984—Vol.-I-LLJ—Page 471). On this point reliance was placed on behalf of the management on the decision of the Supreme Court in the case Kalindi (N) and others V/s. Tata Locomotive and Engineering Company Ltd., Jamshedpur (1960—Vol.-II-LLJ page 228) and the decision of the Kerala High Court in the case Francis V/s. Bank of Cochin Ltd. (1988—(1)-C.L.R.—Page 49)

9. In Kalindi's case (Citation Supra) their Lordships of the Supreme Court generally considered the question whether principles of natural justice confer right on a workman to be represented at the domestic enquiry by any third person. In that case the question that fell for consideration of their Lordships was whether the workman has got a right to be represented by representative of his Union at the domestic enquiry. Their Lordships held that the workman against whom an enquiry is being held by the management as no right to be represented at such enquiry by a representative of his Union though of course an employer in his discretion can and may allow his employee to avail himself of such assistance. It is however, pertinent to note that in that case there was no provision made in the relevant rules about representation of the workman at the domestic enquiry and the Supreme Court considered the limited question whether right to be represented by representative of his Union flows in favour of the workman from the principles of natural justice. That decision cannot be relevant for the purpose of this reference because

right of the workman to be represented at the enquiry by anybody also is specifically recognised by the Bipartite Settlement by which the parties were admittedly governed. The relevant provision finds place in sub-para (a) of paragraph 19.12 of the First Bipartite Settlement dated 19-10-1966 which prescribes the procedure which is expected to be followed in a departmental enquiry. The provision relating to the representation at the departmental enquiry is as follows :—

“(a) He shall also be permitted to be defended.

(i)(x) by a representative of a registered trade union of Bank employees of which he is a member on the date first notified for the commencement of the enquiry.

(y) where the employee is not a member of any trade union of bank employee on the aforesaid date, by a representative of a registered trade union of employees of the bank in which he is employed;

OR

(ii) at the request of the said union by a representative of the state federation or all India Organisation to which such union is affiliated;

OR

(iii) with the Bank's permission, by a lawyer.”

10. In Nadkarni's case (Citation Supra) Their Lordships of the Supreme Court were concerned with a narrow question whether where in a disciplinary enquiry by domestic Tribunal, the employer misconduct appoints Presenting-cum-Prosecuting Officer to represent the employer by persons who are legally trained the delinquent employee if he seeks permission to appear and defend himself by a legal practitioner, a denial of such a request would vitiate the enquiry on the ground that the delinquent employee has not been afforded a reasonable opportunity to defend himself thereby vitiating one of the essential principles of natural justice. While observing that the trend is in the direction of permitting the person who is likely to suffer serious civil or pecuniary consequences as a result of an enquiry to enable him to defend himself adequately, he may be permitted to be represented by a legal practitioner. Their Lordships left open the question whether where as a sequel to an adverse verdict serious civil and pecuniary consequences are likely to ensue in order to enable the person so likely to suffer such consequences with view to giving him reasonable opportunity to defend himself, on his request, should be permitted to appear through a legal practitioner, and held that when the employer is represented by persons who are legally trained a denial of permission to the workman to defend himself by a legal practitioner would vitiate the enquiry on the ground that the employee had not been afforded reasonable opportunity to defend himself thereby vitiating one of the essential principles of natural justice.

11. In the case of Semitra Mohan Kumar (Citation Supra) the learned judges of the division bench of the Calcutta High Court analysed various decisions on this point including the one in Nadkarni's case and expressed the following view :—

“In our view, though court should discourage involvement of legal practitioner in simple domestic enquiries like disciplinary enquiries

for avoiding complication and delay, yet the court cannot ignore the necessity of such representation would constitute failure of the enquiry itself. Principles of natural justice demand conceding such a claim. No general rule can be laid down in this respect but the issue must be left for consideration in the right of the facts of each individual case as observed by De Smith : “Development of case laws on implied rights to legal representation in non-statutory environment should be guided by a realistic appraisal of the interest of two person claiming it as well as of the interest of the organisation to which he belongs.”

12. In the case between Francis V's Bank of Cochin Limited (Citation Supra) the learned single judge of the Kerala High Court relying on the division bench decision of that Court in Saran V's. Cochin Refineries Ltd. (1985 KLT 1171) reiterated the position that in the absence of any rule it is in the discretion of the enquiry officer to permit legal representation at a domestic enquiry unless the delinquent employee is pitted against legal trained person and held that the mere fact that the domestic enquiry was entrusted to the law officer of the respondent Bank and the management had its personnel officer as the Presenting Officer would not vitiate the enquiry if the enquiry was otherwise proper and legal.

13. It is thus clear that the consequences that may ensue as a result of the departmental enquiry are not necessarily the relevant circumstances for the purpose of considering the question whether refusal to permit the delinquent workman to be represented by a lawyer vitiates the enquiry. The relevant question would be whether the delinquent workman is pitted against legally trained persons. It was contended that both the Presenting Officers were legally trained persons. There is nothing to show that Sri V. P. Gaikward, who was the Presenting Officer in the first enquiry was legally trained person. At that time he was working as the Manager of the Jaisingpur Branch. No doubt Shri D. S. Ketkar who was the Presenting Officer in the second enquiry was a law graduate. But that does not mean that he was a legally trained person. He was not even a law officer of the Bank and at the material time he was working as Manager of Vengurla Branch. It is also pertinent to note that in neither of the applications made by the workman to the enquiry officers for permission to be represented by a lawyer, the permission was sought on the ground that the Presenting Officer was a legally trained person. It is also a matter of record that the charge-sheeted employee himself was a graduate.

14. As seen from the record of the first enquiry the workman was permitted to be represented by Shri D.J. Pathan, who was one of the members of the Bank of India Staff Union. It was Shri Pathan who gave the application for permission to the delinquent workman to take assistance of a lawyer on the ground that the charge was of criminal nature and that mere help of a Union activity was not sufficient to fight the case in correct perspective. In the second enquiry the workman did not appoint any defence counsel and preferred to defend his case himself. The second enquiry was commenced on 4-1-1982, and the recording of the evidence was

commenced on 8-1-1982. It was on 9-2-1982, that the workman submitted an application for permission to allow him to take help of a legal adviser. As this request was turned down by the enquiry officer the workman submitted an application to the Regional Manager and to the Disciplinary Authority on 9-2-1982 itself. As mentioned above, in the first enquiry the applicant was given by Shri Pathan to the enquiry officer on 2-10-1980. The application in the first enquiry is at Exhibit W-1, while the application in the second enquiry is at Exhibit-W-13. The reply to the Ex. W-1 was given by the enquiry officer himself nearly three months after the application was given while the second application was replied to by the Regional Manager and the Disciplinary Authority on 19-2-1982. It was contended that the enquiry officer failed to exercise his discretion and refused assistance of a lawyer to the workman on the direction of the officers who had no jurisdiction in the matter. It is an admitted position that even though the reply Ex. W-2 was given by the enquiry officer Shri A. D. Barve himself he had refused the permission at the instance of the Assistant General Manager (Maharashtra Region) as seen from Ex. M-4 and Ex. M-5. The second enquiry officer Shri Mithari, directed the workman to approach the management and accordingly the workman wrote letter Ex. W-13 to the Regional Manager for permission to be represented by a lawyer. Both the enquiry officers did nothing wrong and did what they were expected to do especially in view of the specific provision quoted above contained in sub-para (a) of paragraph 19.12 of the Binartite Settlement. As per the said provision, permission to be defended by a lawyer could only be given by the management of the Bank and the enquiry officer had no discretion in the matter.

15. It will also be seen from the records of both the enquiries that no prejudice was caused and the defence of the workman was not handicapped on account of refusal of permission to be defended by a lawyer. In the first enquiry, the Union representative Shri Pathan, who represented the workman and in the second enquiry the workman himself carried out the cross-examination of the management witnesses thoroughly. As a matter of fact, the cross examination of Shri Jachak, who was one of the management witnesses in the second enquiry ran into 117 typed pages. There is therefore no substance in the contention that because the workman was not permitted to be assisted by a lawyer the enquiries stood vitiated for want of adequate opportunity to the workman to defend himself.

16. The second ground on which the enquiries are attacked is that documents which were relevant to, and necessary to prove, the defence of the workman and which were specifically called for by the workman were not made available. The enquiry officers turned down this legitimate request ignoring the relevancy and the necessity of those documents on record. In the first enquiry, the workman submitted an application dated 24-2-1981, requesting the enquiry officer to make available the over-time sheets of Agricultural Clerks working in the Agricultural Department of Kolhapur Main Branch during the period from January 1978 to May 1979. These documents were called for by the defence in

order to verify the initials of Shri P. B. Ghanekar (Witness No. 2 for the management), who was initialing the over-time sheets, and the forgery of whose initials was the gravamen of the first charge levelled against the workman in the first enquiry. The Presenting Officer objected to the request being considered. He raised for the following objections :—

- “1. The overtime sheets asked for from the Management's witness which cannot be produced by Defence as their evidence.
2. It is already established that the encircled initials against 18-8-1978 and 20-10-1978 on respective overtime sheets of Shri S. B. Patil are distinctly and markedly different from normal initials of Mr. P. B. Ghanekar.
3. By submitting overtime sheets, relating to different dates, month I have shown that the mode of Mr. Ghanekar's initials is quite identical throughout these months. Not only that Mr. Ghanekar also deposed in that respect.
4. In my opinion, the Defence is trying to prolong the enquiry and waste time by making such request knowing fully well that one's way/mode of initialing will not change during the period, from January 1978 to May 1979.”

The enquiry officer upheld the objections raised by the Presenting Officer and rejected the request stating as follows :

“After giving proper attention to the application of the Defence and the objection therefore by the P.O. I have come to the conclusion that :—

- (1) One of the charges mentioned in the chargesheet is that the charge-sheeted employee has forged the initials of the Officer on the overtime sheet and has obtained payment.
- (2) It is likely that the defence intends to prove that the initials of the officer are genuine and not forged. For this purpose the initials of the officer are intended to be verified by the Defence. Exhibit Nos. 1, 2, and 5 through 13 admitted during the enquiry provides as many as 34 initials of the officer concerned. These initials have been done on different dates in different months from August, 1978 to October, 1978.

As such, it is not felt necessary to bring in all the overtime sheets as requested for by the Defence. Moreover, the bank's record cannot be brought in by defence as its evidence.”

17. No doubt, the comparison of several initials of Shri Ghanekar was not only relevant but was also of great importance for coming to the conclusion about the forgery or otherwise of impugned initials of the said officer. It is however pertinent to note that the workman was charged for forging Shri Ghanekar's initials on 18-8-1978 and on 20-10-1978, and on the basis of those forged

initials he obtained overtime allowance for two hours each on the said dates, even though he was neither asked to work overtime nor did he actually work overtime on those dates. The overtime sheets for the period from August to October 1978 were absolutely necessary for proof or otherwise of the charge of forgery in respect of the initials. The workman was therefore fully justified in calling for the overtime sheets of Agricultural Clerks working in the Agricultural Department of Kolhapur Main Branch, for comparison of the initials made by Shri Ghanekar during this period on overtime sheets of all the Clerks working in the Department in which the workman was working at the relevant time. It is however pertinent to note that this request was already granted and all overtime sheets in respect of the Agricultural Clerks working in the Department were got produced and were made available to the workman for inspection and comparison of the disputed initials with other initials of Shri Ghanekar. As mentioned by the enquiry officer in his order the overtime sheets (Ex. 1, 2, and 5 to 13) produced on record contained as many as 34 initials made by Shri Ghanekar on different dates during the period from August to October 1978. This material made available to the delinquent workman was sufficient for comparison of the disputed initials with admitted initials of Shri Ghanekar and it was not necessary to bring on record additional overtime sheets for that purpose. The request, under the circumstances was unreasonable and was rightly turned down. For the same reasons the enquiry officer was justified in rejecting the request made by the workman on 26-2-1981, to make available to him any one of the Agricultural Ledgers, especially ledger no. 37 where in the initials of Shri Ghanekar appeared. Moreover, the enquiry officer did allow the defence to go through the Agricultural Ledger No. 37. Not only that but the enquiry officer gave opportunity to the defence to cross examine Shri Ghanekar again in case the management granted the request of the workman to produce Agricultural Ledger No. 37. There is therefore, no substance in the contention that the relevant documents very material to the defence of the workman were not made available and thus reasonable opportunity was denied to him.

18. The grievance that material documents were not made available to the workman is devoid of substance so far as the second enquiry is concerned. All the three instances which are pointed out do not support this grievance. In the first instance the enquiry officer rejected the request of the workman to permit him to verify the renewal documents L-444-C and L-444-D. But this request was rejected because the said documents were already allowed to be verified and inspected during the earlier session inspite of the objection raised by the Presenting Officer. As a matter of fact, all those documents were verified by the workman on the previous date itself. The second instance which is pointed out not only does not show that the workman was denied access to the material documents necessary for his defence but shows that the enquiry officer allowed the request of the workman restrict-

ing it to the relevant period and to the relevant persons. The workman wanted the Presenting Officer to produce the Stamps and Stamped documents and balance book for verification, the record in respect of balancing of Stamps and Stamped documents during the period from December 1980 to July 1981 and in respect of L-444-Ds debited in various accounts on 23-3-1981. The Presenting Officer objected to this request but the enquiry officer passed the following order :

"As regards the Balancing of stamped documents, from December, 1980 to July, 1981 I consider the matter irrelevant and hence I turn down the request of the CSE for my verifying the record of Branch balancing of documents. As regards the second request for verification of L-444-D debited in the various accounts the PO may produce these documents especially the following for verification of dates thereon :

1. P. D. Sankpal—95
2. D. B. Sankpal—80
3. V. D. Lokhande—51
4. W. V. Bhopale—29
5. S. S. Jadhav—16
6. A. H. Mujawar—98
7. D. G. Gavali—56
8. R. M. Dalvi—112
9. S. A. Khandilkar—48.

The documents were relevant for the purpose of the second charge in the second enquiry which was that the workman falsely claimed halting allowance/batta in respect of his visit to village Morli on 22-5-1981, for renewal of documents L-444-D in the Loan Account of Shri D. B. Sankpal. According to the management, the Stamps and Stamped documents were already debited in the relevant record long before 22-5-1981. It is thus clear that the enquiry officer did allow the workman to have access to all the relevant documents. The third instance is really not one of refusal to get on record any document required by the workman for his defence. The request made by the workman was not for production of any document. He wanted the enquiry officer to verify and get on record some security document covers on the same day instead of keeping those documents in the custody of the concerned branch till the next session of the enquiry on the ground that there was possibility that the branch authorities would hide the truth. The enquiry officer rejected the request by observing thus :

"All along upto this time over a last one year, the required papers are in the custody of Branch authorities, and hence, I am not agreeable to the contention of the CSE that the Management will try to play some mischief which will be against the CSE during the period from the end of this session and opening of next session. It is my privilege to find out the truth regardless of any effort from anybody for hiding the same. Therefore, I stand by with my

original decision in the matter. The proceedings be continued further."

These instances therefore do not support the contention that during the second enquiry, material documents were not brought on the record of the enquiry and thereby defence of the workman was prejudiced. They also do not support the second contention which is sought to be based on these three instances namely bias of the second enquiry officer Shri B. R. Mithari against the workman.

19. Shri Mithari, did not insist upon the Presenting Officer to submit the list of witnesses at the commencement of the enquiry; that he did not compel the management to examine all the witnesses whom the workman wanted to cross-examine, that when the workman informed that he was going to examine Shri S. V. Datte as his witness Shri Mithari, asked the Presenting Officer Shri Ketkar, to inform the Manager, Kolhapur and ascertain from him whether Shri Datte was willing to depose on behalf of the workman and whether the Kolhapur Branch was in a position to relieve him; that on two occasions Shri Mithari over-ruled the objections raised by the workman to the question put by the Presenting Officer to the defence witness and that the cross examination of Shri Sankpal was abruptly closed without granting the request of the workman for an adjournment to bring documents for further cross examination of Shri Sankpal. These instances, according to the workman, show the biased attitude of Shri Mithari.

20. No doubt, it was wrong on the part of the enquiry officer Shri Mithari not to insist upon the Presenting Officer to file at the commencement of the enquiry the list of witnesses whom the management wanted to examine to prove the charges levelled against the workman, and in allowing the Presenting Officer in making known the name of the next witnesses to be examined by the management at the conclusion of the evidence of the first. But the enquiry officer followed the same procedure in case of defence evidence also and it will be seen from the record of the enquiry that he gave full and sufficient opportunity to both the workman as well as the Presenting Officer to cross examine the witnesses examined on behalf of the management, and the defence respectively. The enquiry officer could not have also compelled the management to examine all the witnesses whom the workman wanted to cross examine to substantiate his defence. The workman could have examined these witnesses as defence witnesses. There was also nothing wrong in directing the Presenting Officer to inform the Manager, Kolhapur Branch where the defence witness Shri S. V. Datte was working to ascertain from the Manager whether Shri Datte was willing to depose on behalf of the workman and whether the Kolhapur Branch was in a position to relieve him. It is a matter of record that Shri Datte refused to depose on behalf of the workman. This did not show any partiality on the part of the enquiry officer. It was never the grievance of the workman that it was at the instance of Shri Mithari that Shri Datte refused to depose. It will also be seen that in the context in which the questions were asked the enquiry officer

was not wrong in over ruling the objections raised by the workman to the questions put to the defence witnesses by the Presenting Officer. Moreover, even assuming that the objections were wrongly over ruled an inference of bias cannot be drawn only on two instances.

21. A serious grievance was sought to be made by the workman of the enquiry officer applying gulletine to the cross-examination of two main witnesses for the management in the second enquiry viz. Shri Jachak and Shri Sankpal. He even addressed a letter to the Regional Manager and the Disciplinary Authority in that behalf. The letter dated 27-4-1982, is at Ex. W-3. It was handed over to the enquiry officer on that day and as can be seen from Ex. W-4 the enquiry officer forwarded it to the Regional Manager for whom it was meant. In the said letter, the workman ventilated some more grievances against the enquiry officer. The letter reads as follows :—

1. I would like to bring to your notice the following facts in respect of the present enquiry :—

(a) The Enquiry Officer Mr. B. R. Mithari, is resorting to such powers which fall beyond the scope of an Enquiry Officer. His instruction/order to stop the cross examination of two of the Management witnesses is cited here as the best example to support the above charge against him.

He instructed me to stop the cross examination of Mr. D. V. Jachak, Management's no. 5 and Mr. D. B. Sankpal Management's witness no. 6. The order of the Enquiry Officer to disallow the cross examination of witness no. 6 particularly was extremely illegal and detrimental to the principles of natural justice. In doing so, he himself has made the gravest mockery of the Enquiry.

(b) Mr. B. R. Mithari, often participates in the discussions going on among the Manager Kolhapur Main Branch Accountant and witness of the Management and the Presenting Officer. He also keeps close association with the Manager and the Presenting Officer and the management's witnesses. This definitely creates considerable scope to influence the witness to suit the convenience of the Management. Besides, such type of participation and association on the part of an Enquiry Officer is certainly not expected one, and also not at all conducive to the impartial status of the Enquiry. On the contrary it decreases and diminishes the reliability and trust worthiness of the Enquiry as a whole.

2. As I am denied the very reasonable opportunity to cross-examine the Management witnesses particularly witness no. 6 Mr. D. B. Sankpal, I am deeply constrained to request you to please advise the Enquiry

Officer suitably as to the scope of his duties and powers and particularly the proper use of them."

It is however pertinent to note that as mentioned above, the cross-examination of Shri Jachak expanded over 117 typed pages. Before it was stopped on 20-4-1982, the enquiry officer told the workman as follows :—

"As I have already instructed on 19-4-1982 that you should restrict your cross-examination to the most relevant questions for which I have extended the time limit upto the end of Present Session. Now I instruct you that you should put up your questions in cross examination in such a way that the same will conclude at 5.00 p.m. For this you have last one hour hereonwards."

The workman gave a long reply giving reasons for his long cross-examination and told the enquiry officer that he would continue the cross-examination of the witnesses till his satisfaction. The enquiry officer however directed the workman to conclude his cross-examination by 5.00 p.m. on that day and stopped the cross-examination at that hour, stating that the workman was given more and ample time to cross-examine the witness and that workman was cautioned in advance during the previous week to restrict his questions to the most relevant facts. He also observed that the workman was making abuse of the domestic enquiry. Looking to the nature of the charge and cross-examination of Shri Jachak it is clear that the enquiry officer had already given a long rope to the workman in cross examining the witness. The workman also sufficiently cross-examined Shri Sankpal and wanted to prolong the cross-examination to the next date on the ground that he wanted to visit a doctor as he was not keeping well and also for bringing some documents for further cross-examination of Shri Sankpal. He never mentioned the documents on the basis of which he wanted to further cross examine Shri Sankpal, who was examined to show that the workman did not visit his village for obtaining his signature on 22-5-81, and that he had signed the relevant documents long before the alleged visit of the workman to his village. There is therefore no substance in the contention that the enquiry officer Shri Mithari put a abrupt stop to the cross-examination of the two witnesses of the management and that the workman was prejudiced as a result of abrupt end of the cross-examination. It will be seen from the record of the enquiry proceedings that Shri Mithari was more than fair to the workman and allowed him more than adequate opportunity to establish his defence.

22. The only ground on which bias the attributed to the first enquiry officer Shri A. D. Barve was that he was a friend of Shri N. D. Phadke, who was working as Manager of the Kolhapur Branch from December 1976 to March 1979 and under whom the workman was working during the said period. There is however nothing on record to show that Phadke was enigmical towards the workman and was interested in falsely implicating the workman in a

serious charge of forgery. There is not even a whisper about it in the entire cross examination of Shri Phadke in the enquiry. It is true that the workman had objected to Shri Barve's appointment as an enquiry officer on the ground that he was a close friend of Shri Phadke. But there is nothing on record to show that Shri A. D. Barve was so close to Shri Phadke as to oblige him in establishing a false charge against the workman. Shri Barve who was examined, has admitted in his cross-examination before this Tribunal that he knew Shri Phadke since 1955 when they were working together in the Bombay Main Office. He also admitted that both of them had worked in the pune region but he denied that Shri Phadke was his personal friend since before the enquiry. The workman has also not stepped in the witness box to state on oath that Shri Phadke, Shri A. D. Barve and Shri Mithari were biased against him and were interested in falsely implicating him in one misconduct or the other. Nothing was suggested in the cross-examination of Shri Mithari from which it can be even be vaguely inferred that Shri Mithari was actuated by any malice or bias against the workman. It is therefore difficult to accept the contention of the workman that the enquiries held against him were vitiated on account of the bias of the enquiry officers against him.

23. The contention that the findings of both the enquiry officers are perverse cannot be accepted. The findings are based on evidence placed before them by the management. The conclusions drawn from the evidence are reasonably possible. As a matter of fact, it was not shown that any finding of the enquiry officers is not backed up by evidence and does not arise out of it. It is true that there is no direct evidence to prove the forgery which is basis of the first charge in the first enquiry. But there cannot be direct evidence of forgery and it is always a matter of inference drawn from other evidence and circumstances. Shri Ghanekar, the concerned officer disowned the two initials. There was no plausible reason why he should do so. It was also established to the satisfaction of the enquiry officer that the two initials were different from the admitted initials of Shri Ghanekar and the workman alone was benefited by the transaction. It was he who got the overtime allowance. The inference that two initials were forged was reasonably possible. All the charges in the enquiry were duly established after proper departmental enquiries in which the workman was given ample opportunity to defend himself.

24. This brings me to the question of punishment. It is contended that the punishment of dismissal inflicted on the workman is dis-proportionately harsh. No doubt the second charge of the first charge-sheet and the first charge in the second charge-sheet are not grave misconducts. The disciplinary authority has also treated these two misconducts as not grave and has inflicted light punishments for these two misconducts. For the second charge in the first charge-sheet the punishment given is stoppage of three increments while the punishment given for the first charge of the second charge-sheet is stoppage of two increments. These punishments are merged in the cumulative punishment of dismissal from

service which is inflicted both for the first charge in the first charge-sheet and the second charge in the second charge-sheet. Both these charges are grave in nature, the first charge in the first charge-sheet being graver of the two. Both these charges are concerned with false monetary claims made by the workman. But in the first charge in the first charge-sheet he indulged in a very serious misconduct of forging initials of his superior officer in the overtime sheets for supporting his false claims on two occasions. But the amounts involved in these two transactions are quite small and the workman has very seriously contested the allegation, that the two claims for overtime allowance and the claim for T.A. halting allowance were false. Hence even though the workman does not deserve to be retained in service of the Bank the extreme punishment of dismissal was not called for. The punishment of discharge would have met the ends of justice. It is therefore held that it was duly established that the workman was guilty of the misconducts complained of. The punishment of dismissal however is modified and is converted into one of discharge without notice or without payment of one month's pay in lieu of notice by way of punishment for disciplinary action and without condoning the misconduct. Award accordingly.

M. S. JAMDAR, Presiding Officer
[No. L-12012/104/85-D. II(A)]

नई दिल्ली, 25 अक्टूबर, 1989

का.आ. 2842:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आंध्र बैंक के प्रबन्धतंत्र से संबद्ध नियोक्तों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण भुवनेश्वर के पंचवट को प्रकाशित करती है जो केन्द्रीय सरकार को प्राप्त हुआ था।

New Dehi, the 25th October, 1989

S.O. 2842.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bhubaneswar as shown in the Annexure in the Industrial dispute between the employers in relation to the Andhra Bank and their workmen, which was received by the Central Government.

INDUSTRIAL TRIBUNAL : ORISSA : BHUBANESWAR

PRESENT :

Shri S. K. Misra, LL.B., Presiding, Officer,
Industrial Tribunal, Orissa, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 33 OF 1988 (CENTRAL)

Bhubaneswar, the 22nd September, 1989

BETWEEN :

The Management of Andhra Bank, Regional
Office, 5-Satyanagar, Bhubaneswar.
First Party-Management.

AND

Their workman, namely, Sri Nityananda Sahoo
represented through the Orissa State
Andhra Bank Employees' Union, Hanu-
man Bazar, Berhampur.

....Second Party-workman.

APPEARANCES :

Sri S. V. Ramana, Personnel.....For the First
Officer Party-management.
For the second

Sri M. R. Das, General Secy. ... Party-work-
of the Union man.

AWARD

The Government of India in the Ministry of Labour, in exercise of the powers conferred upon them by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947) and by their order No. L-12011/14/88-D.II(A) dated 19th August, 1988 have referred for adjudication by this Tribunal the following dispute :—

"Whether the action of the management of Andhra Bank in not enlisting Shri Nityananda Sahoo to call for interview for the post of Special Assistant is justified? If not, to what relief is the workman entitled?"

2. The aforesaid dispute between the parties arose in the following circumstances :—

The second party Sri Nityananda Sahoo had been working as a Clerk in the Andhra Bank main branch at Bhubaneswar since 15th July, 1976. On charges of misconduct he was dismissed from service on 13-5-87. He then preferred an appeal against the order of dismissal before the Assistant General Manager, Zonal Office, Bhubaneswar, who was the Appellate Authority. The appeal was disposed of by the Appellate Authority on 18-8-87 reinstating him in service and substituting the following punishments in place of dismissal.

"There was stoppage of four annual increments with cumulative effect for the years 1988-89 and 1990-91 and there was withdrawal of special allowance involving cash duty. The management of the Bank further directed that he should report to duty at the Regional Office, Berhampur and the date of reinstatement would come into effect from the date he reported to duty at the said Office. The period from the date of suspension till the date of his reinstatement was treated as on loss of pay without pay and allowances. The other direction was that he would not be entitled to any salary or allowance for the period from the date of his dismissal till the date of reinstatement and also not entitled to any pay and allowance during the period of suspension excepts the subsistence allowance which he had already drawn". The second party pursuant to the aforesaid order Ext. B re-

ported for duty at the Regional Office at Berhampur on 12-10-87.

3. As per discussions held between the representatives of the management of Andhra Bank and the Union representatives, in the 32nd Industrial Relations Committee meeting held at Hyderabad from 9th to 11th July, 1987 the minutes of which have been marked in this proceeding as Ext. A, a decision had been taken that fifty Special Assistant posts would be introduced in the Andhra Bank on experimental basis and for the purpose of filling up the post in different regions, seniority lists of clerical cadre employees would be prepared region wise. Selection for filling up the Special Assistant posts in each region will be made by holding interview of the Clerks based on the seniority list drawn up in each region. Accordingly, the management of Andhra Bank issued a circular to all its regional and zonal Offices intimating the details about introduction of Special Assistant posts in Clerical cadre of the Bank and giving the guidelines as to how the said posts would be filled in. The eligibility criteria given in the circular was that the employees who had completed five years of service in Clerical cadre as on 30-6-87 were eligible for consideration. Employees, who joined a particular region on or after 30-6-87 were not eligible for the above posts in that region.

4. The Regional Manager of the Andhra Bank, Bhubaneswar Region prepared a list of Clerks according to their seniority to appear at the interview for filling up the post of Special Assistants in Bhubaneswar Region, which was scheduled to be held on 7-11-87 but was shifted to 14-3-88. The second party, Sri Sahoo was not included in the list on the ground that as on 30-6-87 which is said to be the cut-off date he was not in employment in the Bhubaneswar Region of the Bank and as such was not eligible to be selected for the post of Special Assistant.

5. The second party-workman Sri Sahoo, as also, the Union representing him made a representations to the Management to include the name of Sri Sahoo in the list of Clerks called for interview before the interview was actually held but it was not done. The grievance of the second party-workman is that by not including him in the seniority lists for the purpose of entitling him to appear at the interview the management not only violated the settlement arrived at between the management of the bank and the Union regarding the procedure to be followed for filling up the post of Special Assistant but also illegally discriminated against him.

6. The first party-management in its written statement contended that the second party-workman Sri Sahoo was not eligible to be called for the interview in question as he was not in service in Bhubaneswar Zone as on the cut-off date i.e. 30-6-87.

7. The only point which needs consideration in this case is as to whether the second party-workman could be deemed to be in employment in the Bhubaneswar Region of the Andhra Bank on 30-6-87 so as to become eligible to be enlisted for being called to appear at the interview held for filling up the posts of Special Assistants at Bhubaneswar Region.

8. In this proceeding the second party—Sri Sahoo examined himself as W.W.1 and stated that after having been dismissed from service he preferred an appeal before the Assistant Zonal Manager of Andhra Bank at Bhubaneswar. According to him, the appeal was allowed and he was reinstated in service in his former post. The continuation of his service in the bank was maintained. He received the salary for the period he was kept out of employment. He was also paid house rent allowance admissible to the employees of the Bank stationed at Bhubaneswar, which was higher than the rate allowed to the employees of the Bank stationed at Berhampur. He stated that he made representation to the Assistant General Manager, Andhra Bank, Bhubaneswar through the Regional Manager, Berhampur requesting to give him an opportunity to appear at the interview but his name was not enlisted and he was not called to the interview, which was held subsequent to the representation given by him. According to the second party, Sri Dukhishyam Satpathy, who was a Clerk junior to him in Bhubaneswar Zone was selected for appointment as Special Assistant and he joined the said post. No witness has been examined on behalf of the first party management in this proceeding. It was submitted on behalf of the first party-management in the course of argument that the order passed in the Appeal by the Appellate Authority substituting the punishment of dismissal for other punishments go to show that the reinstatement of the second party-workman in service was to come into effect from the date he joined at Berhampur for which there was a direction in that appeal order. Therefore, since after dismissal of the second party-workman i.e. since after 13-5-87 he could not be deemed to be an employee of the Bank serving in Bhubaneswar Region.

To a question put by me as to whether transfer of an employee could be ordered as a measure of punishment for misconduct and if such punishment is prescribed either in the Standing Order of the Bank or in any settlement or by any award, the representatives of both parties answered that transfer has not been prescribed as a punishment for misconduct. In the circumstance, the Appellate Court's order directing Sri Sahoo to join at Berhampur could only mean that it was an ordinary transfer and it was not a punishment inflicted on him for any misconduct. The second party Sri Sahoo as per the management's order was reinstated in service after his appeal was disposed of. It was not a case of fresh appointment if this is the position then what could be the status of Sri Sahoo during the period after his dismissal from services till he was reinstated? The only reasonable answer to the question passed above could be that Sri Sahoo would be deemed to be continuing in employment of Andhra Bank in Bhubaneswar Region till he joined at Berhampur on 12-10-87. Once we arrive at the aforesaid conclusion it is to be held that on the cut off date i.e. on 30-6-87 Sri Sahoo would be deemed to be continuing in employment of the bank at Bhubaneswar and as such, he was eligible to be enlisted to be called for the interview which was held on 14-3-88.

On the aforesaid analysis, I would hold that the management of Andhra Bank did not act properly in not enlisting Sri Sahoo for being called to appear at the interview for the post of Special Assistant. The

aforesaid action of the management of Andhra Bank is held to be unjustified.

9. Now coming to the question as to, to what relief the second party Sri Sahoo is entitled, it is submitted by the representatives of both parties that since August '89 the second party-Sri Sahoo has been given the post of Special Assistant and he has already joined in the said post. It is submitted by the representative of the Union that Sri Sahoo since having been given the post of Special Assistant carrying special allowance he should be placed above his junior Sri Dukhishyam Satpathy who was given the said post carrying special allowance earlier ignoring the claim of Sri Sahoo to be called to the interview in the matter of entitlement to the post of Special Assistant carrying special allowance. It is also submitted that Sri Sahoo should be paid the special allowance attached to the post of Special Assistant from the date his junior Sri Dukhishyam Satpathy was allowed that allowance till Sri Sahoo was made a Special Assistant carrying special allowance. The representatives of the bank opposed the claims advanced on behalf of the second party Sri Sahoo in the matter of grant of such reliefs mainly on the ground that the post of Special Assistant is not a promotional post and further that such posts were created on experimental basis. Both these grounds do not appear to be convincing. For appointment to the post of Special Assistant an interview was held and a process of selection was undertaken. The post carried special allowance. In view of this, it can not be said that the post of Special Assistant did not allow special benefits to the incumbents who are given the posts. The second ground that the posts were created as an experimental measure similarly is unacceptable because what ever it is, employees belonging to one cadre were entitled to be treated equally while the process of selection was taken to choose some amongst them for another post carrying better advantage. It is true that the employees do not have a right to promotion but certainly they have a right to be considered for promotion. In the circumstance, I will have no hesitation to hold that the second party Sri Sahoo who has since been found suitable for holding the post of Special Assistant and has been given the said post must rank above his junior Sri Dukhishyam Satpathy in the matter of entitlement to the post of Special Assistant carrying special allowance.

10. Now coming to the claim for special allowance to be allowed to Sri Sahoo from the date his junior Sri Dukhishyam Satpathy got it on being promoted to the post of Special Assistant till Sri Sahoo got the post, I do not think such a claim is admissible.

In this connection, my attention has been drawn to two decisions. The first one is the decision in the case of Dharam Paul Singla Vrs. State of Punjab

and another, reported in 1983(II) L.L.J. 319. In this case the Hon'ble High Court of Punjab and Haryana quashed the order of the Government passed in a case where a Government servant who had been superseded in a matter of promotion was given promotion on his representation with retrospective effect but was disallowed arrears of pay and allowances for the period between the date of his superannuation and the date on which his representation was allowed. The present case before me is somewhat different. In this case the Special assistant post has not been given to the second party Sri Sahoo with retrospective effect. In the circumstances, Sri Sahoo possibly can not be given arrears of special allowance from the date his junior was allowed that allowance. The second decision is the one in the case of Gunendra Prasad Sengupta Vrs. Union of India and others reported in 1983(II) L.L.J. 172. In this case, which is in respect of an employee of the Food Corporation of India, the appellant's case for promotion to a higher post was not considered when his juniors were empanelled for the purpose of promotion. Their Lordships of the Supreme Court allowed the Civil Appeal and directed the Corporation to consider the case of the appellant for promotion as on the date on which his immediate junior was promoted and if on such consideration he was found suitable for promotion to promote him to the higher cadre and place him above such immediate junior in the higher cadre. Their Lordships further directed that if the appellant is so promoted, the Corporation shall give him all consequential benefits but he would not be entitled to any arrears of salary of the higher post up to the date on which he rejoined his duties in the higher post.

Thus, law as it seems is against the second party-workman in the matter of grant of arrears of special allowance. In the circumstances, I would answer the reference in the following manner :—

The action of the management of Andhra Bank in not enlisting Shri Nityananda Sahoo for being called to interview for the post of Special Assistant is unjustified. In the circumstances, the second party Shri Sahoo should be placed above his immediate junior who had been given the post of Special Assistant carrying special allowance superseding his claim for being considered for promotion at the interview held on 14-3-88 in the cadre of Special Assistant.
Dictated & corrected by me.

S. K. MISRA, Presiding Officer

[No. L-12011/14/88-D.II(A)]

N. K. VERMA, Desk Officer

